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convenes the

MEETING 40

ADVISORY BOARD ON
RADIATION AND WORKER HEALTH

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P R O C E E D I N G S

(8:35 a.m.)

WELCOME AND OPENING COMMENTSDR. PAUL ZIEMER, CHAIR

1 DR. ZIEMER: Good morning, everyone. We're going to
2 get underway this morning. This is the third
3 day of meeting 40 of the Advisory Board on
4 Radiation and Worker Health. Welcome again to
5 everyone.

6 As is usual I'll remind you to register your
7 attendance in the registration book in the
8 foyer.

9 Lew, do you have any preliminary comments for
10 the Board or the assembly?

11 **DR. WADE:** Well, only to thank the Board for
12 its work to this point, and we look forward to
13 another very productive day. Your
14 professionalism and dedication is -- is noted.
15 I guess I would like to determine if Mike
16 Gibson is on the line?

17 **MR. GIBSON:** Yes, on here.

18 **DR. WADE:** Is Mike with us this morning? Yes,
19 Mike is with us.

20 **DR. ZIEMER:** Mike is with us. Thank you. And

--

DR. WADE: I know Mark will be joining us. Mark is here. He'll leave a bit early to go to attend to his father, but he'll be with us this morning.

DR. ZIEMER: Okay.

LOS ALAMOS NATIONAL LABORATORY (LANL)

SEC PETITION

DR. WADE: The first agenda item deals with LANL, and we have a Board member whose waiver has him conflicted at LANL. That's Dr. Poston. So since we're dealing with an SEC petition, our roles are that Dr. Poston would remove himself from the table and not be involved in the discussion. So John, thank you.

(Whereupon, Dr. Poston retired from the table and joined the audience.)

DR. ZIEMER: Okay, we will proceed then with the LANL SEC petition. The presentation will be made by -- for NIOSH will be made by Stu Hinnefeld, and after that we'll have opportunity to hear some comments from Michele Jacquez-Ortiz, and then open the floor for discussion, so...

NIOSH PRESENTATION

MR. HINNEFELD: Good morning, everybody. Thank

1 you, members of the Board and members of the
2 public, colleagues. Most of you who know me
3 know that I don't typically have a lot to say.
4 A trait in my job recently became a far better
5 trait since I now have many conversations with
6 Kate Kimpan, and since -- since one of us
7 doesn't have much to say, that keeps the
8 conversations at a reasonable length, so...
9 But I'll try to provide sufficient information
10 to -- to provide an understanding of the
11 evaluation we went through on this particular
12 site.

13 The petition I'm talking about today pertains
14 to a particular type of exposure at the Los
15 Alamos National Laboratory, exposure to a
16 particular isotope, radioactive lanthanum, and
17 there was a specific purpose for those
18 exposures. This is petition number 61. We
19 number petitions in sequence as we receive
20 them, and this was the 61st. And this petition
21 is an 83.14 petition. It occurs under Part 14
22 of the rule regarding SEC classes and the
23 addition of classes to the SEC. Part 14 of the
24 rule is the resolution of cases where NIOSH
25 determines we don't have sufficient

1 information, and so it's not feasible to
2 reconstruct doses for some type of exposure.
3 And in that situation we reach that
4 determination and write an evaluation report
5 and then actually identify a claimant whose
6 claim falls into the class and recruit --
7 essentially recruit that claimant to be a
8 petitioner for the petition.

9 Now when we do that, we not only evaluate the
10 situation for the particular claimant that
11 we've made the petitioner, so we don't only
12 evaluate the petition, but we evaluate other
13 people whose exposures were similar. In other
14 words, who could not -- who were exposed to
15 this type of exposure that we find
16 reconstruction infeasible and so we define a
17 class in that fashion.

18 Of course you're all familiar with the two-
19 pronged test that's established by the -- by
20 the law and incorporated into our regulations,
21 Part 42 and Part 43. And the first question,
22 is it feasible to estimate the level of
23 radiation dose to individual members of the
24 class, all the members of the class, with
25 sufficient accuracy. And if it is not, then

1 the second question is is there reasonable
2 likelihood that -- that such radiation dose may
3 have caused harm to the people who were
4 exposed.

5 Okay, the -- at Los Alamos the activities with
6 radioactive lanthanum -- the abbreviation RaLa
7 that often is pronounced "ralla" is radioactive
8 lanthanum -- those activities occurred at
9 certain selective locations at Los Alamos.

10 Mainly -- that should be TA-10, not T-10 -- TA
11 at Los Alamos is Technical Area, so the plant's
12 divided into technical areas -- at TA-10, which
13 is also known as the Bayo Canyon Site; TA-35,
14 which is also known as the Ten Site; and then
15 Buildings U (sic), Sigma and U in Technical
16 Area 1.

17 The time period for the work with radioactive
18 lanthanum was from September 1st (sic) through
19 March 6th, 1962, with cleanup activities of
20 this area continuing through July 18th, 1963.

21 We know that the first radioactive lanthanum
22 arrived in -- at Bayo Canyon in September of
23 1944, and we know that the first shot was about
24 mid-September, using the radioactive lanthanum.
25 So not knowing exactly what day in September,

1 we chose September 1st as the start date for
2 the covered period. And then the July 18th,
3 1963 date is the date of essentially the
4 certification of the cleanup. There's a letter
5 saying okay, we've cleaned it up, there's no
6 more -- longer a problem, the buildings have
7 all torn down, there's just this one concrete
8 pad there. And so that was essentially the
9 termination date we chose for the oper-- for
10 the work there involving this exposure.
11 The purpose of the RaLa work or the RaLa test
12 was to test the uniformity of compression of
13 implosion assemblies. I don't know how many of
14 you know, but the plutonium weapons that were
15 developed during World War II had to be
16 imploded at a uniform compression in order for
17 the weapon to work. And so they used this
18 technique to test their explosives and their
19 explosive shaping to make sure they had a
20 uniform compression, and it was done by --
21 well, it must have been a particularly
22 sophisticated measurements of the radiation
23 from this source in the middle of the device as
24 a surrogate for plutonium, some metal that was
25 -- plutonium was crushed around it, you know,

1 by an implosion. So it was actually exploded
2 -- imploded down around this device, and the
3 changes in density of that metal -- whether it
4 would be iron or cadmium or whatever -- were
5 monitored by these very sensitive radiation
6 detectors. And so they could measure not only
7 the extent of the compression, but also the
8 uniformity because they had detectors
9 apparently arrayed around it.

10 The radioactive lanthanum was separated from
11 its parent, barium-140 -- and there were
12 certain other impurities that came along -- in
13 the Bayo Canyon. There's a facility where the
14 chemists did the separation. Compared with
15 half-lives of those two isotopes, barium-140 is
16 about -- I think is around 13 days and
17 lanthanum-140, the isotope they would use, was
18 about 40 hours. And so the concept was the
19 same probably as a molybdenum technetium
20 generator in nuclear medicine facility where
21 you have a somewhat longer-lived radioactive
22 isotope. Molybdenum, the medical -- or barium
23 in this case -- that is continually generating
24 the one you want, so the barium is continually
25 generating the lanthanum-140, and you can

1 extract 140 chemically -- because its chemistry
2 is different now -- and purify it. Same thing
3 occurs in nuclear medicine laboratories today
4 when they extract technetium from molybdenum.
5 So anyway, since the longer half-lived parent,
6 you could -- it would last longer, you didn't
7 have to worry about extracting and using
8 lanthanum-140 purely within a -- or shipping it
9 all the way over to Bayo Canyon and -- and
10 trying to get it used before it decayed away.
11 The RaLa allowed a little extra life time.
12 The amount of radioactive lanthanum in a shot
13 varied by -- it was nominally about 1,000
14 curies per shot, and this was encapsulated in a
15 sphere about a quarter of an inch diameter, so
16 this was a lot of radioactivity in a very small
17 source.
18 And of course since they were testing implosion
19 and they imploded -- this was imploded by high
20 explosive, clearly the radioactive lanthanum
21 was dispersed by the implosion. It would have
22 been vaporized and spread into the atmosphere.
23 And so it caused exposure hazard beyond those
24 just associated with chemical separation. You
25 know, this would have been chemical separation

1 of a very highly radioactive substance. It was
2 not done in a hot booth with manipulators. It
3 was done actually behind shadow shields,
4 probably in more of a bench-top hood or
5 something like that.

6 There are a number of comments in the -- that
7 are recorded in our evaluation report a little
8 more completely than I've put up here that
9 describe measurements that were taken and the
10 concerns that arose -- pretty much from the
11 start with the Los Alamos management -- about
12 the level of exposure that the chemists were
13 receiving who were doing the separation, and
14 about airborne activity generated. It wasn't
15 just the direct radiation exposure from
16 (unintelligible), but there was a fair amount
17 of airborne radioactivity associated with that
18 as well. There was -- they were -- had to take
19 protective measures for people who loaded the
20 plug -- you know, the plug being what the
21 assembly -- what hold this into the implosion
22 device to prevent them from being contaminated
23 just from loading the plug that was already in
24 a sealed source into the device. So there was
25 quite a number of quotes from reports from

1 those eras about concerns having to do with
2 this operation, the amount of exposure and
3 airborne. And there were also then concerns
4 about the -- the undesirably high radioactive
5 airborne areas outdoors after the tests and as
6 the tests proceeded. And of course ultimately
7 there was remediation at the end of the
8 radioactive lanthanum work that would indicate
9 that there was a fair amount of contamination
10 as well.

11 We don't have any personnel monitoring results
12 for radioactive lanthanum or what even seems to
13 be an analog for radioactive lanthanum in the -
14 - in the data we received from Los Alamos, so
15 there are no personnel bioassay monitoring
16 results for internal exposure. We don't have
17 any actual internal -- or air monitoring data
18 either -- inside the buildings. There is some
19 -- there is some description of air monitoring
20 data outside, and results given in things like
21 counts per minute compared to a tolerance level
22 of counts per minute so that -- so we know that
23 there was a considerably elevated airborne
24 concentration outside the building, as well as
25 during -- inside the building during the actual

1 chemical separation work.

2 Now it appears from the records we've been able

3 to examine that the workers were adequately

4 monitored for external exposure. We would

5 expect for people who worked there to have a

6 radiation exposure report from their rad--

7 external exposure during this period. And so

8 we believe that we will have records sufficient

9 to do external dose reconstruction for -- for

10 the workers who worked there.

11 Similarly, we believe we understand enough

12 about the medical monitoring program at Los

13 Alamos that we could reconstruct the

14 occupational medical exposures that workers

15 were exposed to (unintelligible) member of the

16 class.

17 And so in terms of the actual handling of the

18 petition, we were unable to obtain sufficient

19 information to complete the dose reconstruction

20 for an existing claim, the claim that we

21 selected and the recruited as a petitioner.

22 And on May 30th we notified that claimant that

23 we could not -- that the dose reconstruction

24 cannot be completed. This is the process we

25 follow when we do this. We send the person

1 this letter saying we're sorry, we can't
2 reconstruction your dose. And we send them a
3 form -- Form A for the Special Exposure Cohort
4 petition, which is -- essentially this says we
5 can't do your radiation exposure; would you
6 please sign this petition report and send it
7 back to us so that we have a petition, because
8 the rule always deals with a petition and
9 petitioner in terms of adding a class to the
10 SEC, so in order to obtain a petitioner. And
11 then we obtain that -- that petition about a
12 week later.

13 The conclusions of our evaluation, which of
14 course were -- was essentially complete before
15 we sent the -- the Energy employee the "can't
16 reconstruct" letter -- is that we lack the
17 monitoring, process and source information
18 sufficient to estimate the internal radiation
19 doses to Los Alamos employees who worked with
20 radioactive lanthanum for this period,
21 September of 1944 through July of 1963, and
22 that we have sufficient information to estimate
23 other types -- the external and the medical
24 occupational dose. And we intentionally try to
25 make those determinations to establish what can

1 be done for people who would be members of the
2 class but do not have an SEC listed cancer, or
3 people who have some time in the class but not
4 sufficient time in the class, in order to
5 establish that while we can do some dose
6 reconstruction, it may not be sufficient to --
7 to -- in -- in many cases to make the case
8 compensable, but it could be and so we want to
9 make that attempt.

10 We've concluded it's not feasible to estimate
11 with sufficient accuracy the internal radiation
12 doses, and the health of the covered employees
13 may have been endangered based on the potential
14 size of the exposures. And the evidence does
15 indicate, based on reports from the time --
16 contemporary reports from the time -- about
17 concerns about exposures on this operation,
18 that in-- the class may have accumulated
19 intakes over -- of radionuclides over a course
20 of time.

21 The definition of the class as presented here -
22 - I don't suppose I'll read it verbatim, but it
23 includes all of DOE and predecessor agencies,
24 the employees of those agencies and their
25 contractors and subcontractors who were

1 monitored or should have been monitored for
2 radioactive lanthanum at these sites where that
3 was used during the effective period as we --
4 as it's defined. And of course these days
5 could aggregate with other classes that have
6 been added or will be added.

7 And in summary we have our little pictorial
8 representation of what we've determined. We've
9 defined the period; that we cannot estimate
10 internal doses, we find it is not feasible; we
11 found that health was endangered because over
12 time the intakes could be considerable and
13 could result in a dose that just can't be
14 estimated. And so we're -- our evaluation
15 reports indicates that we don't feel like we
16 have -- we have sufficient information to
17 complete internal dose reconstruction and
18 complete an entire dose reconstruction for
19 members of the class.

20 I'll try to answer any questions. I know I
21 have some staff members here who probably are
22 more familiar with the issue that I am.

23 **DR. ZIEMER:** We'll hold the questions till
24 we've had some input, Stu. Thank you very
25 much.

PRESENTATION BY PETITIONERS

The petitioner will not be speaking to us directly, but we will be hearing from Michele Jacquez-Ortiz, who is district director for Representative Tom Udall. And Michele, I think you also have with you Harriet Ruiz, who's a New Mexico state representative, and we'd be glad to hear from her. And also is Andrew --

MR. EVASKOVICH: Evaskovich.

DR. ZIEMER: -- Evaskovich, Andrew, right.

MR. EVASKOVICH: (Off microphone)

(Unintelligible)

DR. ZIEMER: Okay.

MS. RUIZ: Good morning, Board members, and thank you for the opportunity to let me speak to you once again. And I'd also like to thank you for the work you do. I'm going to be very brief this morning. As you know, my SEC 83.13 has been qualified. And in light of the 180-day rule, I would ask the Board respectfully if perhaps you could hold your March meeting in New Mexico so the claimants also for the RaLa 83.14 and mine -- which I'm sure might be at the same meeting because of the 180-day rule -- if you couldn't have that in New Mexico. I

1 think it would be beneficial because many of
2 the claimants do not have any money to travel
3 anywhere, and I basically am their voice at
4 this time but I think it would be wonderful if
5 you could. And that's all I have to say today,
6 and again, thank you very much. I appreciate
7 it.

8 **DR. ZIEMER:** Thank you very much. Andrew, did
9 you also have some remarks?

10 **MR. EVASKOVICH:** Good morning. My name is
11 Andrew Evaskovich. I'm with the International
12 Guards Union of America, Local Number 69 in Los
13 Alamos. I'd like you to -- thank you for
14 taking time to listen to me speak this morning.
15 I've done quite a bit of research on safety
16 issues and I'm involved with safety issues with
17 the union at Los Alamos. And basically my
18 argument is the Technical Basis Document is not
19 sufficient. We did meet with a NIOSH
20 representative last year, but I have a problem
21 with the meeting because it occurred after the
22 document was written. I understand there's
23 been some work done since our meeting, but the
24 process I think is flawed.
25 I'm a former New Mexico State Police officer

1 and I've conducted numerous investigations,
2 from graphic accidents to homicides. And it
3 would seem to me process is process, and you
4 have to deal with people first to start knowing
5 where to look for your information. And I
6 think that the process is flawed because they
7 don't do that when they're developing the
8 Technical Base (sic) Document.

9 Now Mr. Elliott said he likes site experts. It
10 would seem to me they would consult with site
11 experts when they're developing the document as
12 opposed to afterwards. So I appreciate the
13 fact that there is an SEC for the RaLa, but I
14 think there are other issues. Harriet Ruiz has
15 issues as far as dose reconstruction, and we
16 have issues as well. And either we need to
17 correct the Technical Base (sic) Document and
18 we need to look at other possible classes being
19 developed.

20 Thank you for your time.

21 **DR. ZIEMER:** Okay. Thank you, Andrew.

22 **MS. JACQUEZ-ORTIZ:** Well, thank you, Dr. Ziemer
23 and Dr. Wade and members of the Advisory Board
24 for allowing me to speak to an issue related to
25 the presentation that we just heard. My name

1 is Michele Jacquez-Ortiz and I serve as the
2 district director for U.S. Congressman Tom
3 Udall. I've served on the Congressman's staff
4 since his -- since his first election to
5 Congress, and was at his side during the very
6 first community meetings that we hosted to
7 generate support for the passage of legislation
8 that created this program in 2000.

9 The Congressman's staff, both in Washington,
10 D.C. and especially in New Mexico, have spent
11 years since the program's inception trying to
12 realize justice for these claimants. On a
13 daily basis we offer support, advice and
14 guidance for the Congressman's claimants from
15 Los Alamos. Most, if not all, are very sick.
16 Some have passed away, and so we are working
17 with their families to get the compensation to
18 which they are entitled.

19 The Congressman has followed the proposed SEC
20 petitions closely. He felt it was important
21 that I be here today in person to stress upon
22 you a concern related to the RaLa SEC for LANL.
23 In reviewing the evaluation report that NIOSH
24 drafted for this petition, Section 4.5 talks
25 about job descriptions associated with LANL

1 RaLa operations at the Lab. That section reads
2 (reading) Due to uncertainties regarding worker
3 job descriptions and lack of knowledge
4 concerning worker movements among Bayo Canyon
5 facilities, NIOSH -- NIOSH is unable to rely
6 solely on worker job descriptions to determine
7 potential for RaLa operations exposure.

8 NIOSH is unable to rely solely on worker job
9 descriptions to determine potential for RaLa
10 operations exposure. How is the Department of
11 Labor going to determine this? It's a question
12 that I pose, but I think it's an important
13 question and I know there's a representative
14 here from the Department of Labor. I'm just
15 wondering if anyone from that agency can answer
16 that question.

17 **DR. ZIEMER:** We may have to defer getting the
18 answer to you, though they can certainly follow
19 up on that. The question deals with a
20 statement made in Section 4.5, and let me also
21 clarify -- I believe that under this petition,
22 if the petition is successful, the job
23 description will not matter -- will it -- at
24 that point as long as they can establish that
25 they worked on the site.

1 **MS. JACQUEZ-ORTIZ:** Well, Dr. Ziemer, just as
2 was indicated on the record at the D.C. meeting
3 regarding Y-12, that -- there was a statement
4 by DOL that in the absence of work history to
5 the contrary, that workers at the LANL facility
6 who were employed during the class period will
7 be presumed to be RaLa workers. Congressman
8 Udall would urge the Advisory Board to
9 recommend that you include in your letter to
10 Secretary Leavitt wording to the effect that --
11 that the policy be incorporated -- that in the
12 absence of work history to the contrary,
13 workers at the LANL facility who were employed
14 during the class period shall be presumed to be
15 RaLa workers.

16 The Congressman also respectfully requests that
17 the Advisory Board include in its letter to
18 Secretary Leavitt some wording that makes it
19 clear that external and medical dose be -- be -
20 - can be reconstructed by NIOSH. And we think
21 that it's important for the Board to be
22 explicit in this point because it would allow
23 DOL to adjudicate the external dose for the
24 non-SEC cancers.

25 **DR. ZIEMER:** Yes, thank you. And in fact, I

1 think that has been our normal practice. It
2 certainly was in the petition that we approved
3 earlier this week to indicate what can be done
4 as well as what can't be done.

5 **DR. WADE:** Michele, could you read that first
6 sentence again, in the absence of work history
7 to the contrary?

8 **MS. JACQUEZ-ORTIZ:** Yes. (Reading) In the
9 absence of work history to the contrary,
10 workers at the LANL facility who were employed
11 during the class period will be presumed to be
12 RaLa workers.

13 So on behalf of the Congressman and all the
14 constituents that -- that he represents, we
15 thank you for allowing time on the agenda for
16 this issue.

17 **DR. ZIEMER:** Thank you very much. And let me
18 ask for a clarification either from Larry or
19 from Stu, the wording that we just heard in
20 fact does meet the intent, does it not, of what
21 your petition suggests; is that not correct? I
22 don't -- I don't want to put words into your
23 mouth. I'm -- I'm --

24 **MR. ELLIOTT:** I can't opine upon this because
25 this is DOL's determination of eligibility --

1 **DR. ZIEMER:** Oh, okay, I see.

2 **MR. ELLIOTT:** -- and what we heard from Pete
3 Turcic in D.C. about how they go about doing
4 that business is that if they don't have any
5 records that indicate the person worked in
6 those buildings or those areas, they simply go
7 after an affidavit. And then -- then beyond
8 that, if there's no information that refutes
9 that affidavit, they presumed the individual
10 worked in that position.

11 But I'm speaking, you know, as I heard Pete
12 Turcic's talk --

13 **DR. ZIEMER:** You're talking about the Labor
14 determination, which in a -- you're saying in a
15 sense we don't control that, but we can still
16 make the recommendation to the Secretary.

17 **MS. JACQUEZ-ORTIZ:** Dr. Ziemer, Congressman
18 Udall's concern is rooted -- he has testified
19 before the Judiciary Committee. He testified
20 at the last meeting in D.C. with regard to
21 providing the DOL with more discretion than we
22 feel -- we -- we have some concerns with regard
23 to the passback memo and some other concerns
24 over at DOL, so the Congressman would urge the
25 Advisory Board to be explicit in its wording in

1 the letter.

2 **DR. ZIEMER:** Thank you. Understood. Okay.

3 Now --

4 **BOARD DISCUSSION**

5 **DR. WADE:** I'd like to speak just briefly to
6 that. And again, the Advisory Board is free to
7 do what it wishes in terms of, you know, the
8 wording of its recommendations. As Larry
9 pointed out, this is the responsibility
10 primarily of the Department of Labor, but there
11 is no limitation on this Advisory Board
12 speaking as clearly as it wishes to the
13 Secretary of HHS.

14 **DR. ZIEMER:** Larry?

15 **MR. ELLIOTT:** I want to reiterate something we
16 said at the D.C. meeting about this -- this
17 issue. It's our practice that once we have
18 developed the evaluation report and had a, you
19 know, technical review of that and come to
20 closure on it in our minds, we then share the
21 definition with Department of Labor to make
22 sure that we have crafted that definition in a
23 way such that they can use it to determine
24 eligibility most effectively -- our intent is
25 most effectively -- for the claimants. And so

1 they have come back to us on this particular
2 one and said yes, they can work with it.

3 **DR. ZIEMER:** Thank you. Now I'd like to open
4 the questions for Stu. Let me begin, Stu. I'm
5 asking some questions a bit as a Devil's
6 advocate to assure myself that indeed you
7 cannot reconstruct dose. First, is the
8 lanthanum a volatile material in the way it's
9 used? Is there any concern about airborne from
10 volatility or is it merely from the explosions?

11 **MR. HINNEFELD:** There was apparently some
12 volatility associated because there are reports
13 from the period about the extensive airborne
14 activity --

15 **DR. ZIEMER:** Prior to (unintelligible) --

16 **MR. HINNEFELD:** -- during the separation
17 process --

18 **DR. ZIEMER:** Okay, that's --

19 **MR. HINNEFELD:** -- before it was exploded.

20 **DR. ZIEMER:** Okay. Now -- oh.

21 **MS. JACQUEZ-ORTIZ:** Dr. Ziemer -- Larry, did
22 you say that NIOSH requires claimants to file
23 an affidavit? No, I -- did I misunderstand?
24 Yeah, because I thought that the worker
25 interview was really...

1 **MR. ELLIOTT:** What I said was that DOL, in
2 absence of records to determine eligibility for
3 a member to be in the class, would look for
4 that -- that person to provide an affidavit
5 saying that the per-- their Energy employee
6 worked in those areas. It's not our affidavit.

7 **MS. JACQUEZ-ORTIZ:** I'm not sure that that's
8 being readily done, but that -- that would be
9 for the DOL to answer, of which a
10 representative is not available.

11 **DR. ZIEMER:** Okay. Thank you. And then the
12 explosion tests are done inside of the
13 facility; did I understand that correctly?

14 **MR. HINNEFELD:** No, the explosions are outside.

15 **DR. ZIEMER:** All -- always in the air.

16 **MR. HINNEFELD:** Beg your pardon?

17 **DR. ZIEMER:** They're all open-air, the
18 explosions?

19 **MR. HINNEFELD:** Well, they're --

20 **DR. ZIEMER:** (Unintelligible)

21 **MR. HINNEFELD:** -- (unintelligible) open-air --
22 I -- I sus--

23 **DR. ZIEMER:** They weren't inside some kind of a
24 bunker or --

25 **MR. HINNEFELD:** No, no.

1 **DR. ZIEMER:** Okay. And for the indoor work, I
2 -- I notice you have a source term which
3 indicates amounts -- it appears amounts of
4 (unintelligible) experiment, and if one assumed
5 100 percent of the material became volatile and
6 you knew the size of the facility, presumably
7 you could calculate a maximum air
8 concentration. I -- I'm trying to get a feel
9 for why you cannot bound the air intakes in
10 this case --

11 **MR. HINNEFELD:** Well, I think it may have --

12 **DR. ZIEMER:** -- and I'm not disputing, it may
13 be very difficult, I'm just asking to assure us
14 that you indeed cannot do dose reconstruction.

15 **MR. HINNEFELD:** Well, I mean there's a --
16 there's an element of -- of credible exposure
17 scenario that has to enter into saying we can
18 bound exposures, as well. And so given -- you
19 know, we know roughly how much was done per
20 shot, we know roughly how many shots, so we
21 could do an integrated (unintelligible) source
22 term. But if -- I -- I think it would be a
23 fairly unrealistic scenario to say well, we can
24 cap the dose because we -- what if all this was
25 dispersed throughout the building and these

1 people -- you know, someone breathed 100
2 percent of this inventory or -- or something
3 like that.

4 **DR. ZIEMER:** Well, you'd have to use breathing
5 rate, but --

6 **MR. HINNEFELD:** Right.

7 **DR. ZIEMER:** Yeah.

8 **MR. HINNEFELD:** Sure. And so once -- I don't
9 know that that would be a, you know, a scenario
10 that provides a really feasible or realistic
11 exposure scenario, so -- you know, it's -- it's
12 (unintelligible) say well, we know external
13 dose was capped by 500 rads that year because
14 they would have died from acute radiation
15 syndrome if they had gotten that much, so it's
16 the same kind of reason why we wouldn't go to
17 those kinds of extremes just so we can cap the
18 dose.

19 **DR. ZIEMER:** Okay. Other questions from
20 members of the Board? Dr. Lockey.

21 **DR. LOCKEY:** Stu, when I looked -- looked this
22 over, I -- the testing was done -- implosions
23 were done from 1944 to -- to '62?

24 **MR. HINNEFELD:** Yes.

25 **DR. LOCKEY:** And there were 254 implosions,

1 which are 14 per year, on average --

2 **MR. HINNEFELD:** Okay.

3 **DR. LOCKEY:** -- I don't -- I mean they might
4 have been -- but how -- how does -- I guess how
5 does the 250-day rule come into effect here?
6 If you -- if you had to look at this in
7 relationship to that exclusion criteria, what
8 are your feelings about that?

9 **MR. HINNEFELD:** The -- right now we -- as I
10 understand it, we essentially have two options.
11 The options are either presence or 250 days.

12 **DR. LOCKEY:** Right.

13 **MR. HINNEFELD:** And --

14 **DR. LOCKEY:** But I'm asking your opinion about
15 the implosion process and if there's one per
16 month and somebody worked there three months, I
17 mean is that -- is that something to be
18 concerned about or not?

19 **MR. HINNEFELD:** Well, I guess I personally
20 haven't tried to analyze that and determine
21 what -- the problem with having to say well, is
22 three months an issue or is six months an
23 issue, is in order to make a determination
24 whether I feel like that would be sort of a
25 level of harm or something, then I would have

1 to have some way to say well, what would they
2 get per shot or what would they get per month,
3 and we don't feel like we can do that. So when
4 you try to decide -- you try to limit it to a
5 particular duration of time, then you would say
6 that well, in order to do that, I have to make
7 some assumptions about an exposure or a dose
8 rate, and we generally -- you know, we
9 concluded that we don't feel like we can do
10 that in a realistic fashion. So it's very hard
11 to make a decision point -- reach a decision
12 point shorter than 12 months. I think it's --
13 it's fairly -- we're confident from the control
14 and the fact that clearly the Lab management
15 was trying to control -- they were concerned
16 about the exposures to people and they were
17 making some attempts to control the exposures,
18 that we're not in the acute range where
19 extremely high dose rate of say hundreds of
20 roentgens or hundreds of rem per day, like
21 would be associated with a criticality
22 accident, would be relevant. So we're sort of
23 past the presence, you know, the -- what we
24 feel like would be the issue for presence, but
25 beyond that, if you try to make a determination

1 of a time period that's shorter, then you have
2 to have some process that says well, how -- at
3 what rate would he be accumulating dose in that
4 period of time, and we just don't feel like we
5 can.

6 **DR. LOCKEY:** Maybe I'll ask my colleagues, can
7 you give me a handle on -- on biological
8 plausibility and being exposed to this on a
9 monthly basis for a year? I mean is this -- is
10 this a --

11 **MR. HINNEFELD:** I don't think I quite
12 understood the question.

13 **DR. WADE:** He's asking the Board, but go ahead,
14 you need to speak closer to the microphone.

15 **DR. LOCKEY:** Is -- I mean I -- maybe you -- the
16 Board can educate me about biological
17 plausibility and cancer risk if somebody is
18 exposed to implosions once a month for less
19 than a year period of time. Is this a concern,
20 from a biological plausibility perspective?

21 **MR. HINNEFELD:** Well, it's hard for me to say
22 now. I mean standing at the podium and --
23 right now, I mean it'd be hard for me to make
24 an educated statement about that. I -- without
25 making some assumption about what exposure from

1 an implosion might be, and I don't know that I
2 can do that, I don't know that I can come up
3 with a duration or a meaningful thing to say.
4 I'm confident I can't do it standing here. I
5 mean I -- maybe we could -- you know, it would
6 have to be something we would have to work on
7 or think about for a while.

8 **DR. ZIEMER:** If the material is fairly
9 volatile, like radioiodine, and I don't know
10 that lanthanum is or isn't, but it seems to me
11 that you could get significant internal doses
12 during the preparation process even though the
13 -- and presumably that would occur just before
14 you did the shot because of the half-life that
15 you indicated. But the -- once you did that
16 preparation, then if you released this material
17 with a 14-hour half-life and you use the rule
18 of thumb that it's going to be around for about
19 ten half-life periods, which is close to a week
20 -- a week is 168 hours, this would be 140, so
21 it's there most of the week once the work is
22 done. I -- I think indoor exposures where you
23 would have confined concentrations might -- you
24 know, if you're outdoors and you get dispersal,
25 that -- those concentrations go down very

1 rapidly. But in any event, it would seem to me
2 that even though the shots look like they're
3 intermittent, you could have contamination in
4 that facility throughout the week, it would
5 appear to me.

6 **MR. HINNEFELD:** It would seem to me that at 14
7 --

8 **DR. ZIEMER:** (Unintelligible)

9 **MR. HINNEFELD:** -- at 14 shots per month, you
10 have a relatively --

11 **DR. LOCKEY:** No, per year.

12 **MR. HINNEFELD:** -- constant operation going on.

13 **DR. ZIEMER:** Right.

14 **DR. LOCKEY:** Fourteen shots a year.

15 **DR. ZIEMER:** It sound like one -- one or so --

16 **MR. HINNEFELD:** But even at that point, I mean
17 -- don't forget, we're not just talking about a
18 separation of a pure lanthanum-140 and handling
19 of that. It's -- it's transported, it's
20 protected, it's maintained at -- the solution -
21 - or I assume it's a solution that the 140 is
22 extracted from that contains other radioactive
23 materials, (unintelligible), you know, is
24 there. Certainly some of those impurities
25 probably went with the lanthanum-140 even

1 though they tried to purify it. Those uncert--
2 those impurities would be in the explosion, as
3 well, so it -- it's not -- it sounds like a
4 chemistry -- a clean chemistry operation, but I
5 suspect it wasn't so clean.

6 **DR. ZIEMER:** You have additional questions,
7 Jim, or other members? Comments?
8 Stu, I noticed in other presentations the
9 bottom line slide typically showed that NIOSH
10 could reconstruct external and then in a
11 separate line, internal. Is there any
12 particular reason that this summary slide kind
13 of lumped it all together?

14 **MR. HINNEFELD:** I probably overlooked putting
15 it in there, that's why the slide wasn't --

16 **DR. ZIEMER:** Okay.

17 **MR. HINNEFELD:** You know, the context -- or the
18 text of the presentation presents that we --
19 our belief that we -- it's feasible to
20 reconstruct the medical exposures and the
21 external exposures.

22 **DR. ZIEMER:** Right.

23 **MR. HINNEFELD:** And when I constructed the
24 presentation, I just neglected to include it.

25 **DR. ZIEMER:** Right. Okay. Wanda Munn.

1 **MS. MUNN:** Stu, I was a little puzzled when I
2 was reading through this information about what
3 appeared to be a real shortage of good concrete
4 bioassay data for these folks. And it
5 surprised me because one would anticipate
6 fairly decent information from LANL. Do you
7 have any feel for why the bioassay records are
8 so skimpy for this particular operation during
9 the time?

10 **MR. HINNEFELD:** Well, I don't have any hard
11 information about that. It could be that there
12 was not a good technique. Now I -- I know
13 nothing about the (unintelligible) or lanthanum
14 in the body as I stand here today. I suppose I
15 could look it up. It could be that there's not
16 a good technique. It could be that if there's
17 some excretion of any other ingested lanthanum
18 and so you could have a bioassay program. It
19 could be that there's insufficient chemistry or
20 insufficient chemistry in order to have a
21 decent analysis.

22 **MS. MUNN:** Yeah, okay. So there's a
23 probability that it has more to do with the
24 radionuclide than the assay program, that's --

25 **MR. HINNEFELD:** Could very well.

1 **MS. MUNN:** That's what I really wanted to know.

2 **MR. HINNEFELD:** It could. I'm -- I'm
3 speculating.

4 **MS. MUNN:** Yeah, right.

5 **DR. ZIEMER:** Okay. Dr. Lockey, did you have an
6 additional question?

7 **DR. LOCKEY:** No.

8 **DR. ZIEMER:** Mike Gibson on the phone, do you
9 have any questions?

10 **MR. GIBSON:** Not at this point.

11 **DR. ZIEMER:** No questions, okay. Any others?
12 Board members -- oh, comment from Larry.

13 **MR. ELLIOTT:** I want to go back to Dr. Lockey's
14 question about biological plausibility and this
15 concern about health endangerment. I mean we
16 wrestle with this in each and every one of
17 these, and I think it's important to -- for
18 this particular one to make sure there's an
19 understanding that, as I understand it, this is
20 not a criticality event. This is radioactive
21 lanthanum in a high explosive, and the
22 lanthanum is used to determine the conformity
23 of the implosion. So it's unlike a criticality
24 event.

25 And when we look at criticality events with

1 regard to presence versus 250 days, we
2 certainly would like to speak about biological
3 plausibility, but we find ourselves held to
4 this two-pronged test. If we can't do dose
5 reconstruction, then we have to ascribe whether
6 or not health was likely endangered, and that's
7 -- that's a difficult process 'cause, as I
8 think you all know, dose is the factor there,
9 not perhaps time.

10 And so when we -- when we -- when we think
11 about these things and we look at these
12 particular issues, when we're dealing with a
13 criticality event we -- we want to know and we
14 look very hard to determine if that was a
15 planned and controlled event and the exposures
16 were monitored and controlled or -- or
17 protected against, as we think we've seen in
18 Nevada Test Site/Pacific Proving Ground. So
19 where we -- we can't find that, then it --
20 presence, like the Y-12 criticality event was
21 uncontrolled, unplanned, unprotected-for in
22 many ways. That's -- that's a presence
23 criticality event.

24 I would just say that, you know, we're
25 wrestling with the 250 days, too. We're

1 wrestling with biological plausibility. But
2 we've not found a good way to -- to address
3 that at this point. We have to live within the
4 law that -- as it's stated in the rules that we
5 have.

6 **DR. ZIEMER:** Okay. Thank you, Larry.

7 **DR. MELIUS:** Can I add to...

8 **DR. ZIEMER:** Yes, Jim.

9 **DR. MELIUS:** I would just add to that that we
10 do have a workgroup, our SEC evaluation
11 workgroup is looking at that and I think it's
12 always possible to revisit these should we sort
13 of come up with a different approach or
14 different understanding. I think I tend to
15 agree with Larry on -- on this -- sort of where
16 this one will go. I don't think it's
17 necessarily appropriate that we need to reserve
18 that issue. We can always come back. It
19 really was a NIOSH-generated petition, so I
20 think it's appropriate to let's deal with it as
21 a Board after the workgroup report comes out
22 and decide then.

23 **DR. ZIEMER:** Thank you. And yes, Larry, this
24 definitely would not be a criticality type
25 issue at all.

1 Okay, other comments or questions?

2 (No responses)

3 **BOARD DECISION**

4 Okay, Board members, then it would be in order
5 to have a motion either to adopt this
6 recommendation -- or support it or to -- to not
7 support the petition, or to ask for additional
8 information, as we did in the previous case.
9 The Chair will entertain a motion.

10 **MR. PRESLEY:** So moved.

11 **DR. ZIEMER:** Okay, so moved. I'll interpret
12 that as being -- you're moving to --

13 **MR. PRESLEY:** Accept it.

14 **DR. ZIEMER:** -- accept the recommendation and
15 support it. This would be a motion to -- to
16 recommend to the Secretary that the SEC
17 petition be approved. Is there a second?

18 **MR. CLAWSON:** I second it.

19 **DR. ZIEMER:** Okay, and it's been seconded. Now
20 we will need the wording for this one in our
21 usual form, and with the possible inclusion of
22 some clarification words of the sort that were
23 suggested to us earlier. Dr. Melius --

24 **DR. MELIUS:** Yeah, I could --

25 **DR. ZIEMER:** -- do you by chance --

1 **DR. MELIUS:** Yes.

2 **DR. ZIEMER:** -- have some --

3 **DR. MELIUS:** Purely by -- by chance.

4 **MR. PRESLEY:** Do you hear the clicking going
5 over here?

6 **DR. MELIUS:** And if Bob will accept my --

7 **DR. ZIEMER:** The detailed --

8 **DR. MELIUS:** -- (unintelligible) amendment here
9 after he hears it --

10 **DR. ZIEMER:** The detailed wording to the
11 Presley motion.

12 **DR. MELIUS:** And I think I -- I at least made
13 an attempt at the additional wording you just
14 mentioned. Okay, here we go.

15 (Reading) The Board recommends that the
16 following letter be transmitted to the
17 Secretary of Health and Human Services within
18 21 days. Should the Chair become aware of any
19 issue that, in his judgment, would preclude the
20 transmittal of this letter within that time
21 period, the Board requests that he promptly
22 informs the Board of the delay, the reasons for
23 this delay and that he immediately works with
24 NIOSH to schedule an emergency meeting of the
25 Board to discuss this issue.

1 The Advisory Board on Radiation and Worker
2 Health (the Board) has evaluated SEC Petition
3 00061 concerning workers at the Los Alamos
4 National Laboratory under the statutory
5 requirements established by EEOICPA and
6 incorporated into 42 CFR Section 83.13 and 42
7 CFR Section 83.14. The Board respectfully
8 recommends a Special Exposure Cohort be
9 accorded to all employees of the DOE,
10 predecessor agencies and their contractors or
11 subcontractors who were monitored or should
12 have been monitored for exposure to ionizing
13 radiation associated with radioactive lanthanum
14 (RaLa) operations at Technical Area 10 (Bayo
15 Canyon Site), Technical Area 35 (Ten Site) and
16 Buildings H, Sigma and U (located within
17 Technical Area 1) at the Los Alamos National
18 Laboratory for a number of work days
19 aggregating at least 250 work days during the
20 period from September 1st, 1944 through July
21 18th, 1963, or in combination with work days
22 within the parameters established for one or
23 more other classes of employees in the SEC.
24 This recommendation is based on the following
25 factors:

1 Number one, people working in these areas of
2 Los Alamos National Laboratory were involved in
3 the development and testing of nuclear weapons.
4 Reviewing available monitoring data for these
5 operations, NIOSH found it did not have access
6 to sufficient information, including internal
7 personal dosimetry, workplace monitoring data
8 or sufficient process and radiological source
9 information that would allow it to estimate
10 with sufficient accuracy the potential internal
11 exposures to which members of the proposed
12 class may have been exposed. This -- the Board
13 concurs with this determination.

14 Number two, NIOSH determined that health was
15 endangered for the workers exposed to radiation
16 in these areas of LANL within the time period
17 of -- in question. The Board concurs with this
18 determination.

19 Number three, the NIOSH review of data found
20 that it was sufficient to support accurate
21 individual dose reconstruction for external
22 doses and occupational medical doses for
23 workers at the areas in question at the Los
24 Alamos National Laboratory. The Board concurs
25 with this determination.

1 In their evaluation NIOSH determined that it
2 was difficult to identify people who worked in
3 these areas of LANL based on job
4 classifications. Therefore, the Board
5 recommends that determination of eligibility
6 for this class take into account this
7 difficulty. In the absence of work history or
8 other information to the contrary, workers at
9 the LANL facility during the time period in
10 question should be presumed to have worked in
11 the areas in question.

12 Enclosed is supporting documentation of recent
13 Advisory Board meeting held in Las Vegas,
14 Nevada where the Special Exposure Cohort was
15 discussed. If any of these items aren't
16 available at this time, they will follow
17 shortly.

18 **DR. ZIEMER:** Thank you. I have one question on
19 the wording, Jim. Under the description of the
20 class, I think basically your last sentence
21 described these as individuals who were working
22 with nuclear weapons, and I note that in
23 NIOSH's description of the class it describes
24 them as individuals who were potentially
25 exposed to radioactive material which primarily

1 consisted of barium-140, lanthanum-140,
2 strontium-89 and strontium-90. I'm wondering
3 if the terminology "exposed to nuclear weapons"
4 or whatever that wording was might be a little
5 misleading or -- I don't know that they were
6 necessarily working with the weapons.

7 **MR. PRESLEY:** It could have -- at that time it
8 could have been anything.

9 **DR. MELIUS:** I was -- I actually took this from
10 the document, but I was attempting just to come
11 up with a general description of the processes
12 at the time without trying to go into a lot of
13 detail. I mean I've no --

14 **DR. ZIEMER:** Well, actually what I was trying
15 to make sure is that our description --

16 **DR. MELIUS:** Yeah.

17 **DR. ZIEMER:** -- of the class matched the NIOSH
18 description of the class, and maybe --

19 **DR. MELIUS:** Our definition may
20 (unintelligible) --

21 **DR. ZIEMER:** -- let me cross-check it with
22 Stu's slide, too.

23 **DR. MELIUS:** Yeah. The definition actually
24 does match, but I certainly would be open to
25 another wording.

1 **MS. MUNN:** It's not an accurate
2 characterization.

3 **DR. ZIEMER:** Okay, the proposed class
4 definition -- that's sort of a -- an add-on.
5 Is that what it is? I guess the class
6 definition ends with the description of the
7 working days and so on.

8 **DR. MELIUS:** Yeah.

9 **DR. ZIEMER:** However, in the petition it does
10 specifically call out the work with those
11 nuclides as opposed to weapons work. I simply
12 -- I leave it to the Board if you -- on the
13 wording.

14 **DR. MELIUS:** Larry, you have a suggestion or...

15 **MR. ELLIOTT:** Not on that, on something else.

16 **DR. MELIUS:** Oh, okay.

17 **MR. ELLIOTT:** I don't -- in our -- in my
18 opinion, I'm not sure that it -- it's going to
19 make much difference.

20 **DR. ZIEMER:** It may not.

21 **MR. ELLIOTT:** I can't see any way it would --
22 it would cause a claimant harm in -- in
23 eligibility.

24 **DR. ZIEMER:** Yeah, I was concerned that it
25 didn't match what was in the petition, but if

1 it doesn't affect it, that's fine.

2 **MR. ELLIOTT:** The concern I come to the mike
3 with is that you -- your -- your -- as you read
4 that, you mentioned that we could not do
5 internal dose. I'd suggest for your
6 consideration if you would specify that to RaLa
7 dose, internal lanthanum, because there may be
8 other internal exposures that we may be able to
9 reconstruct. There may be other bioassay on
10 other types that could be reconstructed, and we
11 don't want to miss that.

12 **DR. ZIEMER:** Okay, would that alter a
13 particular sentence or you're looking --

14 **DR. MELIUS:** Yeah, I'm trying to find the right
15 --

16 **DR. ZIEMER:** Okay, while you look at that, Dr.
17 Lockey, did you have a comment or question?

18 **DR. LOCKEY:** I just need some help -- maybe you
19 can help me with this, Mr. Elliott. How many -
20 - how many people do you know actually worked
21 in this area versus how many people worked at
22 Los Alamos National Labs?

23 **MR. HINNEFELD:** We don't know today how many
24 would -- were at these areas. Is there like
25 anecdotal about a particular time period? We

1 don't -- the short answer is we don't know how
2 many, compared to the total Los Alamos work
3 force during that period worked at these areas.
4 There's not information that was collected by
5 us as part of our work in order to try to do
6 this.

7 **MR. ELLIOTT:** We -- you know, we've asked DOE
8 similar questions and not got any real concrete
9 answers. How many people ever worked at LANL?
10 Well, they'll give you a ball park figure and
11 it -- you know, depending on who you ask, you
12 get different numbers. How many people might
13 have worked in these areas, we don't know.

14 **DR. LOCKEY:** Well, then do we have any idea how
15 complete the work histories are at Los Alamos
16 National Lab?

17 **MR. HINNEFELD:** Standing here today, I don't.
18 I don't know how complete they are standing
19 here today.

20 **DR. ZIEMER:** Wanda Munn.

21 **MS. MUNN:** With respect to the original issue
22 of nuclear weapons, that is an inaccurate
23 categorization of the work that was being done.
24 Better described I think in the original
25 document itself as being chemical separation

1 and implosion tests involving RaLa. If one
2 says "nuclear weapons," the automatic inference
3 is that you have special nuclear material
4 involved and consequently potential --

5 **DR. ZIEMER:** Criticality.

6 **MS. MUNN:** -- daughter products of -- of actual
7 criticalities and explosions, and that's not
8 the case here.

9 **DR. ZIEMER:** So you're suggesting that that
10 wording be changed?

11 **MS. MUNN:** Yes, I am.

12 **DR. ZIEMER:** And Robert?

13 **MR. PRESLEY:** I agree with Wanda. At the time
14 of testing, that was not a nuclear weapon but a
15 component or an operation.

16 **DR. MELIUS:** Can I --

17 **DR. ZIEMER:** Jim.

18 **DR. MELIUS:** Why don't I re-read that
19 particular paragraph.

20 **DR. ZIEMER:** Sure.

21 **DR. MELIUS:** It's two changes in it and I want
22 to make sure everybody's comfortable with
23 those.

24 It now reads (reading) People working in these
25 areas of the Los Alamos National Laboratory

1 were involved in chemical separation and
2 implosion testing of RaLa. In reviewing the
3 available monitoring data for these operations,
4 NIOSH found it did not have access to
5 sufficient information, including internal
6 personal dosimetry, workplace monitoring or
7 sufficient process and radiological source
8 information that it would allow it to estimate
9 with sufficient accuracy the potential internal
10 RaLa doses to which exposure -- to which
11 members of the proposed class may have been
12 exposed. The Board concurs with this
13 determination.

14 **DR. ZIEMER:** It would appear to me that that
15 would address both issues that have been raised
16 --

17 **DR. MELIUS:** Yeah.

18 **DR. ZIEMER:** -- and I --

19 **MR. HINNEFELD:** Dr. Ziemer, could I address
20 this?

21 **DR. ZIEMER:** Yeah.

22 **MR. HINNEFELD:** I'm sorry to do this. I would
23 suggest rather than saying "chemical separation
24 and testing of RaLa," we use the terminology
25 from the petition class definition which is

1 "associated with RaLa operations" at those
2 facilities, for -- for fear that chemical
3 separation and testing may be interpreted
4 restrictively rather than operation
5 (unintelligible) --

6 **DR. ZIEMER:** Associated with.

7 **MR. HINNEFELD:** Yeah, "associated with," which
8 is not --

9 **DR. ZIEMER:** It makes it more general and
10 flexible. Can you make that change then, Dr.
11 Melius?

12 **DR. MELIUS:** Yeah.

13 **MR. PRESLEY:** As we speak.

14 **DR. ZIEMER:** Mark Griffon.

15 **MR. GRIFFON:** I -- I wasn't -- I just have to
16 go back to an earlier question that you had,
17 Paul. Because of what Larry raised, the -- and
18 Larry -- did he step out?

19 **DR. ZIEMER:** He's over --

20 **MR. GRIFFON:** I guess the -- I didn't
21 understand from the earlier presentation that
22 you had any bioassay data to do any internal
23 dose estimate. Now Larry's saying might want
24 to limit it to lanthanum, which -- you know,
25 that then in my mind raises the question of can

1 you bound lanthanum, you know, even 1,000
2 curies of lanthanum in -- in an intake if you
3 do the dose calculations as -- I mean there --
4 it may -- it may not meet that plausible
5 definition. I think, Stu, you might be right
6 on that. But I'm just questioning, is there
7 other bioassay data? Did I miss that in the
8 presentation? I came in a few minutes late.

9 **MR. HINNEFELD:** Do what?

10 **MR. GRIFFON:** That you can do other
11 radionuclide -- you --

12 **MR. HINNEFELD:** The bioassay data does not
13 include use of the lanthanum or those
14 contaminants that went along with it, and so we
15 have -- from that era we have bioassay for
16 other radionuclides like plutonium and tritium
17 and probably uranium and things like that,
18 which would not be relevant to the type of
19 exposure we're discussing with radioactive
20 lanthanum. But we don't have a bioassay set --
21 surely not a robust bioassay set, there may be
22 a sample here and there, but we don't have a
23 robust bioassay set for either the radioactive
24 lanthanum or the impurities that may be used as
25 markers for bounding purposes. Is that -- did

1 that answer your question?

2 **MR. GRIFFON:** Yeah, I just want -- and you
3 explored the -- the -- I think you answered
4 this when you answered Paul. You explored the
5 possibility of can we model this. We have this
6 many runs -- I think you said you knew the
7 number of runs, you knew the approximate
8 nominal activity in each run and -- and you've
9 explored the possibil-- you -- you've --

10 **MR. HINNEFELD:** We didn't have any
11 (unintelligible) --

12 **MR. GRIFFON:** -- the estimates on if ten
13 percent was released and actually ten percent
14 of the total activity was an uptake to an
15 employee, what -- what the --

16 **MR. HINNEFELD:** We didn't have any confidence
17 that we could arrive at a number like that that
18 was credible. It didn't give us a credible
19 number.

20 **MR. GRIFFON:** So it was really based on the --
21 on -- on -- you couldn't establish a plausible
22 scenario.

23 **MR. HINNEFELD:** Yes.

24 **MR. GRIFFON:** Okay.

25 **DR. ZIEMER:** Larry.

1 **MR. ELLIOTT:** Let me suggest for your
2 consideration that you put both phrases in, the
3 "separation in development of" a nuclear
4 weapon. Okay? I'm just a little worried about
5 losing that phrase, nuclear weapon. But --

6 **MS. MUNN:** Why, Larry?

7 **DR. ZIEMER:** It's not in the petition was the
8 point I was making. I don't object to it being
9 there, per se. I -- it wasn't in the
10 description of the class in any way, but
11 understood it's part of the weapons program
12 certainly.

13 **MS. MUNN:** Yeah.

14 **DR. ZIEMER:** So...

15 **DR. MELIUS:** Should we say -- can I make an
16 attempt here, 'cause we've changed it once
17 again while you were talking, Larry. (Reading)
18 People working in these areas of Los Alamos
19 National Laboratory were associated with
20 radioactive lanthanum operations.
21 Okay? That's what we have now. And then what
22 I would suggest, how about (reading) People
23 working in these areas were associated
24 radioactive lanthanum operations as part of the
25 early development and testing of nuclear

1 weapons.

2 **MR. PRESLEY:** I'll buy that.

3 **DR. MELIUS:** Yeah, I mean that's the context
4 for it.

5 **MR. PRESLEY:** I'll buy that.

6 **DR. ZIEMER:** The context. Wanda Munn.

7 **MS. MUNN:** Ah, that's all right. Forget it.
8 Let them make whatever they want to make out of
9 it. It will be made.

10 **DR. ZIEMER:** Okay. Thank you. Any other --
11 Mark, did you have any follow-up on your
12 question?

13 **MR. GRIFFON:** No.

14 **DR. ZIEMER:** Okay. And --

15 **DR. WADE:** For the record, Larry is just trying
16 to -- to make sure that the workers are
17 protected by any --

18 **DR. ZIEMER:** Right.

19 **DR. WADE:** -- that's all he's (unintelligible).

20 **DR. ZIEMER:** Stu -- Stu or Larry, the -- the
21 issue that you raise about other nuclides or
22 other bioassays, anticipating -- we don't know
23 whose -- whose claim might come into this, and
24 you're saying it's possible that they might
25 have exposures even elsewhere on the site that

1 include other things that have been bioassayed.
2 Is that -- is that the point?

3 **MR. HINNEFELD:** I believe that's the point, is
4 that the internal dose --

5 **DR. ZIEMER:** Yeah.

6 **MR. HINNEFELD:** -- that we can't reconstruct
7 where there's no bioassay (unintelligible) --

8 **DR. ZIEMER:** And if they had --

9 **MR. HINNEFELD:** -- (unintelligible) type of
10 exposure.

11 **DR. ZIEMER:** -- bioassay, are we assuming that
12 the lanthanum would be missed?

13 **MR. HINNEFELD:** Yes. I mean if they would have
14 the uranium or plutonium bioassay --

15 **DR. ZIEMER:** Oh, yeah, yeah --

16 **MR. HINNEFELD:** -- or tritium bioassay, we
17 would --

18 **DR. ZIEMER:** -- so it's --

19 **MR. HINNEFELD:** -- certainly expect it to be
20 missed.

21 **DR. ZIEMER:** -- specific they --

22 **MR. HINNEFELD:** Yeah.

23 **DR. ZIEMER:** -- if it was chemically specific.
24 Right. Or the time --

25 **MR. HINNEFELD:** Or the time.

1 **DR. ZIEMER:** -- would -- right.

2 **DR. WADE:** So with a non-covered cancer, you
3 would attempt a partial dose reconstruction
4 using external, and possibly internal, but not
5 dealing with lanthanum.

6 **DR. ZIEMER:** Yeah. Thank you. Okay, I think
7 we have the wording of Mr. Presley's motion.
8 Are you ready to vote? It appears that we're
9 ready to vote.

10 Those who support the motion, please raise your
11 hand.

12 (Affirmative responses)

13 Okay, all present have raised their hand.
14 Michael Gibson?

15 **MR. GIBSON:** I vote aye.

16 **DR. ZIEMER:** Michael votes aye. There then
17 would be no no's and no abstentions, and the
18 record will show that Dr. Poston has reclused
19 (sic) himself from this deliberation and vote.
20 The motion carries. Thank you very much.
21 Thank you, Stu.

22 How are we on time?

23 **DR. WADE:** One minute. I would make one brief
24 announcement.

25 **DR. ZIEMER:** We're going to have a break in a

1 moment. We have a brief announcement first.

2 **DR. WADE:** Just for everyone's planning
3 purposes, it is our -- it is the intent that
4 Senator Reid will speak to the group via
5 technology -- magic technology from Washington,
6 and that's scheduled for 2:30 p.m. -- Nevada
7 time, correct? -- so those of you who want to
8 plan your day around that, that's the current -
9 - Senator Reid is our host, after all.

10 **DR. ZIEMER:** Thank you. We'll take a 15-minute
11 recess.

12 (Whereupon, a recess was taken from 9:45 a.m.
13 to 10:15 a.m.)

14 **S-50 SEC PETITION**

15 **DR. ZIEMER:** We are now ready to resume our
16 deliberations. The next item on our agenda is
17 an SEC petition. It's referred to as the S-50
18 petition which comes out of Oak Ridge and what
19 was called the Oak Ridge Thermal Diffusion
20 Plant, and Stu Hinnefeld will give us the NIOSH
21 evaluation report on this petition.

22 **NIOSH PRESENTATION**

23 **MR. HINNEFELD:** Hello again. Anybody else
24 experiencing deja vu?

25 Okay, this next presentation is -- relates to

1 the S-50 Thermal Diffusion Plant, one of the
2 early uranium enrichment attempts, and this
3 work went on in Oak Ridge. This is Petition
4 Number 60. As I said, we number them in
5 sequence as we receive them.

6 The -- this was again an 83.14 petition. In
7 other words, we encountered a particular
8 situation, exposure scenario. We felt like we
9 could not find enough exposure to perform a
10 feasible dose reconstruction and so the -- we
11 proceeded along the 83.14 path. And not only
12 did we consider the situation of the petitioner
13 that we identified, but also people with
14 exposures similar to him. In other words,
15 other people exposed in this -- in this way,
16 and that would be the definition of the class.
17 I just showed this slide a while ago -- of
18 course the two-pronged test for adding classes
19 to the Special Cohort as defined in our
20 regulations. Is it feasible to estimate the
21 level of radiation exposure that the class was
22 exposed to -- all members of the class were
23 exposed to, and is there a reasonable
24 likelihood that their health could have been
25 harmed by the exposures.

1 Okay, the S-50 Plant was, as I said, one of the
2 early attempts to enrich uranium. It was built
3 during the War in Oak Ridge. It -- there was
4 some Navy pilot work done in Philadelphia, I
5 believe, beforehand and then Manhattan
6 Engineering District took that technology and
7 tried to -- tried to do some enrichment at S-
8 50. They had some degree of success, got the
9 uranium enriched a little bit, and then we used
10 that as feed into the Calutrons at Y-12 where
11 the really successful enrichment occurred.
12 The Thermal Diffusion operation shut down in
13 1945 and the process equipment was disassembled
14 in the late '40s so the facilities out there
15 essentially has shut down for a number of
16 years. And then the facility was further used
17 through December of 1951 to conduct feasibility
18 studies for the Nuclear Energy for Propulsion
19 of Aircraft project, the infamous nuclear
20 airplane which was apparently referred to as
21 NEPA, which of course means something
22 completely different today.
23 We -- briefly describing the processes that
24 were evolved -- involved in -- relevant to our
25 issue with reconstructability here, the first

1 is the thermal diffusion process -- there are -
2 - it consisted of a series of concentric heated
3 and chilled pipes. UF-6 under pressure was
4 injected between those pipes and then the
5 convection currents tended to separate the U-
6 235 from the U-238, U-235 tending to go up to
7 the hot side and 238 tended to go down to the
8 cold side, so the draw-off then occurred on the
9 hot top of the column. And there was some
10 enrichment success. You know, there was a
11 slightly preferential movement in those -- in
12 that direction, so there would be some
13 enrichment effect.

14 For the NEPA project the -- we have very --
15 very sketchy information about the work that
16 was done. We know that they were assembling
17 essentially fuel and graphite blocks with the
18 idea that they were going to build a reactor to
19 go into an airplane. They fabricated those
20 blocks. We don't really know what source term,
21 how much uranium they had that would have been
22 enriched uranium, we don't know how much they
23 would have had or how enriched. We don't know
24 exactly what they did in terms of forming the
25 blocks, what processes were involved. We don't

1 know the chemical form of the uranium. And
2 there's also indication that they may have used
3 -- or they may have done some activation
4 analysis for materials that had been previously
5 irradiated at X-10.
6 We've been able to obtain no personnel
7 monitoring results for either the external
8 exposures or the internal exposures at these
9 facilities. We have no air monitoring data for
10 the facility -- for the facility during either
11 of the periods of operation, and we do have
12 some contemporary -- contemporaneous
13 information reports that indicated that the
14 process was kind of leaky, that there was some
15 significant uranium release during the attempts
16 at diffusion. UF-6 under -- you know, if it's
17 hot and it's not under pressure, it's a vapor.
18 And so these would be pretty volatile releases.
19 Now there is a limited amount of information
20 from direct radiation and contamination
21 surveys, but we don't feel like there is
22 sufficient body of data, either in magnitude or
23 time, to give us a good handle on what the
24 magnitude of the doses might be. And we don't
25 have any information about the state of

1 equipment as it was shut down and retired and
2 as it sat there in the facility. We don't
3 really know what the plant -- the condition of
4 the plant was between the time that they
5 stopped trying to do the diffusion and the time
6 that they converted it, disa-- disassembled the
7 equipment. We -- you know, as far as we know,
8 it was as it stood, with whatever hold-up
9 material would have been there, whatever
10 contamination would have been there until it
11 was disassembled.

12 We do believe we know enough about the medical
13 monitoring program in this period in the Oak
14 Ridge complex that we could develop protocols
15 for reconstructing the medical -- occupational
16 medical dose for the -- for the class or people
17 in the class. That's a pretty limited amount
18 that we could reconstruct, but it is possible
19 to be successful on occasion to achieve a -- to
20 complete a dose reconstruction sufficiently
21 with that. Otherwise, we'll do what -- you
22 know, we'll provide what we can reconstruct in
23 this -- in that arena.

24 So strictly and quickly as an overview in our
25 evaluation of the S-50 Plant as, you know, we

1 kind of -- as we were researching the Oak Ridge
2 facilities and trying to determine what we
3 could learn about the Oak Ridge facilities, of
4 course we came across the S-50 Plant. We had
5 claims from the S-50 Plant. We said -- and as
6 we investigated what -- you know, trying to
7 establish ways to do dose reconstruction, we
8 concluded well, we really can't. We really
9 don't have enough information.

10 So we contacted a claimant, who ultimately
11 became the petitioner, in the middle of May;
12 sent them a letter saying sorry, we attempted
13 to reconstruct your dose but we're not able to.
14 Here's the SEC petition Form A. Please sign
15 that and send it back. And so we received that
16 then at the end of May and it became petition
17 number 60. And the evaluation of course had in
18 large part been done by that time because we
19 pretty much did the evaluation before we sent
20 the letter that we couldn't reconstruct the
21 doses.

22 In terms of the feasibility, we find that we
23 lack the monitoring, process and source term
24 information to estimate the internal or
25 external doses to the S-50 facility from --

1 facilities from July 1944 through December
2 1951, and that's the entire covered period for
3 this facility. When I say covered period, I
4 mean the specified covered period that's been
5 identified by Department of Energy and
6 Department of Labor.

7 We believe we have sufficient information to
8 estimate the medical exposures -- only the
9 medical exposures for that period, and we'll
10 attempt to do that on the chance that we may
11 have success by doing that.

12 So as I say, we've determined it's not feasible
13 to estimate with sufficient accuracy the
14 internal/external doses for all members of the
15 class, and we believe that health may have been
16 endangered because of the nature of the
17 operation, the using UF-6 vapor, there's a lot
18 of potential for releases and internal exposure
19 sufficient over a number of years to provide --
20 you know, be -- potentially harm the -- the
21 health of the employee in terms of the test in
22 the EEOICPA program, and that in either
23 operation, since we lack information to bound
24 their -- decide how bad could it have been, we
25 feel like it's pretty much not possible to say

1 well, we can't say how bad it was, but it could
2 be bad enough to hurt them. It seems like that
3 kind of goes hand in hand that -- so exposures
4 could have been high enough to cause harm. And
5 certainly it appears that some per-- workers in
6 the class may have accumulated substantial
7 intakes, particularly from the operation of the
8 diffusion plant.

9 Proposed class definition is here, as well as
10 in the evaluation report. So again the
11 (reading) All employees of the DOE and its
12 predecessor agencies and their contractors and
13 subcontractors who were monitored or should
14 have been monitored -- should have been
15 monitored based on today's thought process --
16 to ionizing radiation at S-50 Thermal Diffusion
17 Plant for the 250 days. Again, since it was a
18 uranium exposure, even though we can't bound
19 the upper -- of the total amount of exposure,
20 the particular exposure rate would be such that
21 it would have to be more than presence. You
22 wouldn't get a very high acute exposure that
23 would allow presence, so for a period of 250
24 days. And of cour-- and the days can be
25 aggregated with other classes.

1 And our summary slide which is same as last
2 one, so if I'd neglected to put in what we can
3 and can't reconstruct in the table last time, I
4 again neglected to put it in this time. It
5 defines the class, our determination of
6 feasibility and our -- our view of health
7 endangerment.

8 That's all I have to present on this at the
9 moment. And I may need help from staff if
10 there are questions.

11 **DR. ZIEMER:** Okay. I don't believe we have any
12 petitioners present, do we, on this one -- Lew,
13 if you -- or Larry?

14 **MR. RUTHERFORD:** (Unintelligible)

15 **BOARD DISCUSSION**

16 **DR. ZIEMER:** LaVon, okay. No petitioners to
17 speak on this one, so let's open it for
18 discussion. Stu, do you know -- or maybe even
19 Mr. Presley would know -- organizationally, was
20 the -- the S-50 facility operated by the same
21 contractor as the rest of the facility and --
22 and that remark is -- or that question is one
23 where I'm asking if the monitoring program
24 differed from those at K-25 or X-10 or Y-12.

25 **MR. RUTHERFORD:** Well, I know we know that it

1 was constructed by H.K.Ferguson and operated by
2 Fercleve Corporation. I don't think Fercleve
3 was a contractor that operated Y-12 or any of
4 the other --

5 **DR. ZIEMER:** No. So it was a different
6 contractor, and presumably then would have --
7 or conceivably could have had a completely
8 different health and safety program?

9 **MR. RUTHERFORD:** Yes.

10 **DR. ZIEMER:** Robert, can you shed any
11 additional light on that?

12 **MR. PRESLEY:** Yes and no. To everything that I
13 can find out about S-50, a large part of it was
14 run by the Navy. They did use people from K-25
15 as their probably maintenance and -- and
16 everything else. I would say that if there was
17 any health physics or monitoring or anything
18 like that, it would have probably come from K-
19 25. But there's very, very little information
20 on this. And as far as who the prime
21 contractor was for that, I've not even been
22 able to find that yet.

23 **DR. ZIEMER:** Yeah, LaVon has -- had a name
24 there and --

25 **MR. PRESLEY:** Yeah, but it's --

1 **MR. RUTHERFORD:** Yeah, it -- Fercleve
2 Corporation was the operator. I will add that
3 -- that the sur-- the little amount of data we
4 do have, it's not clear that there was a
5 separate organization, like K-25 or anybody,
6 that actually did the health physics work, so -
7 - which -- very limited health physics work.

8 **DR. ZIEMER:** Can you tell for sure that it was
9 not an -- an actual Navy operation or a
10 military --

11 **MR. RUTHERFORD:** From everything that we've
12 read, the S-50 portion of it -- you know, it
13 clearly seems to be that it was, you know, a --

14 **DR. ZIEMER:** Civilian --

15 **MR. RUTHERFORD:** -- AEC operation or an
16 operation that would have been under the
17 weapons because you -- you were actually
18 enriching uranium. And they were -- the S-50
19 was just one of the different processes -- you
20 know, besides the Calutrons and that -- that
21 they were --

22 **DR. ZIEMER:** They were trying a --

23 **MR. RUTHERFORD:** Exactly.

24 **DR. ZIEMER:** -- lot of different things, yes.
25 No, I was just curious as why there would be no

1 monitoring when other -- I think other parts --
2 when did the monitoring start, for example, at
3 K-25 and Y-12? It was almost from the
4 beginning, was it not?

5 **MR. RUTHERFORD:** Actually if you look at Y-12,
6 the -- we had virtually no internal monitoring.
7 The reason why we added the Calutrons for the
8 early years is both in-- you know, we couldn't
9 do internal or external for the Calutrons.

10 **DR. ZIEMER:** Right.

11 **MR. RUTHERFORD:** It was similar -- you know,
12 very little monitoring data.

13 **MR. PRESLEY:** Now one of the reasons you don't
14 find the data down there is Y-12 was -- went on
15 line first, and they were having problems
16 getting material so they said let's build the
17 N-50 real fast and that's what they did, and K-
18 25 probably -- I'd have to go back and look at
19 dates, but K-25 probably didn't even come into
20 production until about what, '46 -- end of '45,
21 '46, and N-50 was doing their thing at the end
22 of '44 trying to feed Y-12.

23 **MR. RUTHERFORD:** Yeah, actually if you -- if
24 you remember back when we did the Y-12 early
25 work, the reason why the Calutrons were shut

1 down when they did in '49 was -- was -- I mean
2 from enrichment was because K-25 had come on
3 line and they'd actually seen the high
4 efficiency out of K-25.

5 **DR. ZIEMER:** Okay. Other questions? Okay,
6 Brad.

7 **MR. CLAWSON:** I -- and this is -- I think
8 you've already answered this, but I'm just
9 looking at the work force. We -- they could
10 have used work forces from K-25 -- I mean
11 electricians, the whole nine yards. I'm
12 wondering about technicians, everything else
13 that could have been involved in this -- reason
14 I bring this up because when we were in Oak
15 Ridge one of the petitioners brought this up
16 and was -- made the comment of working at these
17 areas.

18 **MR. PRESLEY:** I would probably state that any
19 technicians or anything like that that might
20 have worked at -- at N-50, I couldn't -- I
21 couldn't say with 100 percent accuracy, but I
22 would say that they probably came from Y-12
23 rather than K-25. Because at the time this
24 thing was started up, K-25 was in prod-- was in
25 the building stage. It was not in the

1 production stage and Y-12 was the one that was
2 in the production stage. This was -- this
3 facility was built solely to supply material to
4 -- to the Calutrons at Y-12.

5 **MR. RUTHERFORD:** The only thing that would
6 possibly say that that wasn't true was the fact
7 that you did have different operators, company
8 operators. Fercleve Corporation did not
9 operate -- was not in -- you know, was not the
10 same operating company as -- who was operating
11 Y-12 and so you -- you may have been that --
12 you know, employer issues where you may not
13 have been able to pull employees. And the
14 documents that we've retrieved, the in-- some
15 infor-- the information that we've retrieved
16 indicates that these were new employees, you
17 know, so it -- it -- it -- we did get the
18 indication that -- you know, it's not to say
19 they weren't, but we didn't get the indication
20 that they came from another facility.

21 **MR. CLAWSON:** Well, and -- and I understand
22 that, and a -- and a lot of the defense
23 contractors and stuff, the management-type
24 operation was run by a different company, but a
25 lot of times because of special use of the

1 employees and stuff they used -- used the work
2 force that was established there.

3 **MR. PRESLEY:** Yeah, that's correct, because
4 they -- they -- the work force crossed lines,
5 especially in the early days out there. I mean
6 if you needed a -- if you needed a pipe fitter
7 real fast, they might pull that pipe fitter
8 from -- from ORNL if they couldn't get one on-
9 site.

10 **DR. ZIEMER:** But in cases where they did that -
11 - for example, if you had a construction
12 worker, a pipe fitter from let's say Y-12, if
13 they left the Y-12 site, any monitoring that
14 they might have had there would stay there, I
15 assume. They wouldn't be taking either pocket
16 dosimeters or badges from one site to the
17 other. Is that correct? Or do we even know?
18 Maybe we don't know, but --

19 **MR. PRESLEY:** I'd say you don't even know.

20 **MR. RUTHERFORD:** I know that we actually looked
21 at some of that -- and Mark's not here, but we
22 looked at some of that with the Y-12, you know,
23 SEC petition. The early years, there's no
24 indication of that, you know. It -- there's so
25 -- there's sparse data at both Y-12 and, you

1 know, the S-50 for those early years to really
2 even make a determination on that.

3 **DR. ZIEMER:** Yeah.

4 **MR. CLAWSON:** Well, and to further add on to
5 that, up until probably ten or 12 years ago,
6 when I'd go to any other facility I would have
7 a whole totally different TLD. I had a total
8 of six at one time.

9 **DR. ZIEMER:** Okay. Thank you. Other comments
10 or questions?

11 (No responses)

12 **BOARD DECISION**

13 If there are no questions, perhaps the Board is
14 ready to take action on this. The Chair would
15 entertain a motion, if anyone wishes to make a
16 motion. Dr. Melius, you want to get first
17 crack at it here.

18 **DR. MELIUS:** It's a rather long motion.

19 **DR. ZIEMER:** Just to encapsulate it, are you
20 going to make a motion that we support this?

21 **DR. MELIUS:** Yes.

22 **DR. ZIEMER:** Yes, okay. And the wording then
23 would be?

24 **DR. MELIUS:** The wording would then --

25 (reading) The Board recommends that the

1 following letter be transmitted to the
2 Secretary of Health and Human Services within
3 21 days. Should the Chair become aware of any
4 issue that, in his judgment, would preclude the
5 transmitting of this letter within that time
6 period, the Board requests that he promptly
7 informs the Board of the delay, the reasons for
8 this delay, that he immediately works with
9 NIOSH to schedule an emergency meeting of the
10 Board to discuss the -- this issue. The letter
11 reads as follows:

12 The Advisory Board on Radiation and Worker
13 Health (the Board) has evaluated SEC Petition
14 00060 concerning workers at the Oak Ridge
15 National Laboratories under the statutory
16 requirements established by EEOICPA and
17 incorporated into 42 CFR Section 83.13 and 42
18 CFR Section 83.14. The Board respectfully
19 recommends a Special Exposure Cohort be
20 accorded to all employees of the DOE,
21 predecessor agencies and their contractors or
22 subcontractors who were monitored or should
23 have been monitored while working at the S-50
24 Oak Ridge Thermal Diffusion Plant for a number
25 of work days aggregating at least 250 work days

1 during the period from July 9, 1944 through
2 December 31st, 1951, or in combination with
3 work days within the parameters established for
4 one or more other classes of employees in the
5 SEC.

6 This recommendation is based on the following
7 factors:

8 Number one, people working in S-50 Oak Ridge
9 Thermal Diffusion Plant were employed in a
10 wartime uranium enrichment facility from July
11 8th, 1944 to September 9th, 1945, and in
12 feasibility studies for the Nuclear Energy for
13 the Propulsion of Aircraft project from May
14 1st, 1946 through December 31st, 1951. NIOSH
15 found that it lacked access to internal and
16 external personnel -- personnel dosimetry data
17 and other workplace monitoring data necessary
18 to reconstruct internal and external exposures
19 to uranium compounds and other radioactive
20 materials that may have been present at the
21 facility during the time periods in question,
22 and thus was unable to estimate with sufficient
23 accuracy radiation doses from internal and
24 external exposures for these workers. The
25 Board concurs with this determination.

1 NIOSH determined that health was endangered for
2 workers exposed to radiation in -- as -- at the
3 S-50 Oak Ridge Thermal Diffusion Plant in the
4 time period in question. The Board concurs
5 with this determination.

6 Enclosed is supporting documentation from
7 recent Advisory Board meetings held in Las
8 Vegas, Nevada where the Special Exposure Cohort
9 was discussed. If any of these items aren't
10 available at this time, they will follow
11 shortly.

12 **DR. ZIEMER:** Okay, you've heard the motion. Is
13 there a second?

14 **MR. CLAWSON:** I'll second it.

15 **DR. ZIEMER:** And seconded. I'd like to ask a
16 question. I believe in the presentation it was
17 indicated that medical exposures could be
18 reconstructed, but not external and internal
19 occupational --

20 **MR. HINNEFELD:** That's -- that's correct.

21 **DR. MELIUS:** Okay, then I missed that. I'm
22 sorry.

23 **DR. ZIEMER:** So my question is, do we need to
24 refer to that in the narrative --

25 **MS. MUNN:** Yes.

1 **DR. ZIEMER:** -- in the way that we have when
2 you can do, for example --

3 **DR. MELIUS:** Yeah.

4 **DR. ZIEMER:** -- external but not internal, so
5 we may need a sentence indicating that the
6 adequate reconstruction of occupational medical
7 dose at the S-50 site is considered feasible.
8 Or -- or that NIOSH found that it is considered
9 feasible and that the Board concurs.

10 **DR. MELIUS:** Yeah, just a second and I will...

11 **DR. ZIEMER:** Other comments? Larry.

12 **MR. ELLIOTT:** I think I heard you site 83.13.
13 This is an 83.14. I don't know --

14 **DR. MELIUS:** I cited both of them, which as I
15 recollect -- it's been a while -- that was the
16 way we did it when we originally had an 83.14.

17 **MR. ELLIOTT:** I don't know if it makes any
18 difference, but --

19 **DR. MELIUS:** I'm -- would -- willing to stand
20 corrected on that, but I -- my recollection is
21 we ended up -- rather than doing specific
22 sections, we just did generally 83.13 and 14
23 for that -- adding to that, and that was --
24 whoever was counsel at the time in the audience
25 concurred, but -- you know, I'm not sure it

1 makes a difference as long as we cite them both
2 and cite 14.

3 **MR. ELLIOTT:** (Off microphone) (Unintelligible)

4 **DR. ZIEMER:** Both are cited in the -- in the
5 NIOSH review, Larry.

6 **MR. ELLIOTT:** I think what's cited in the NIOSH
7 review -- maybe I'm wrong here -- but is 82.12
8 where we can't -- am I right, Stu? This is not
9 an 83.13, I know that. But it comes from an
10 82.12 where we identify we can't do dose
11 reconstruction. Then we move it into an 83.14
12 petitioning situation. And I don't think
13 there's a problem with citing 83.13, except
14 this is -- you know, this particular petition
15 is not an 83.13, so --

16 **DR. MELIUS:** Uh-huh.

17 **DR. ZIEMER:** I'm just looking at your -- at
18 Section 8.0 of your evaluation, which deals
19 with the health endangerment --

20 **MR. HINNEFELD:** Right.

21 **DR. ZIEMER:** -- it says it's governed by
22 (unintelligible) --

23 **MR. HINNEFELD:** (Unintelligible) health
24 endangerment portion (unintelligible) --

25 **DR. ZIEMER:** -- and 13 and 14.

1 **MR. ELLIOTT:** Okay, that's the tie-in. That's
2 what I was missing. That's where we tie into
3 health endangerment.

4 **DR. ZIEMER:** Right, health endangerment is from
5 both. So are we okay then to -- yeah.

6 **DR. MELIUS:** Can I friendly amendment my --
7 I've added a section, (reading) Number three,
8 the NIOSH review of the data was -- found that
9 it was sufficient to support accurate
10 individual dose reconstruction for occupational
11 medical doses for workers that -- in the area
12 at the S-50 Oak Ridge Thermal Diffusion Plant.
13 The Board concurs with this determination.

14 **DR. ZIEMER:** And let me just ask Stu, on that
15 issue of the medical -- you don't really deal
16 with it, but is there an assumption or do we
17 know that they -- they indeed had annual
18 medical exposures there, or would you simply
19 assume that they had medical exposures sort of
20 equivalent to what the other parts of the Oak
21 Ridge site had? What -- what -- what do you in
22 fact do in the medical case?

23 **MR. HINNEFELD:** In -- for medical we would
24 expect them to have the same type exposures as
25 the rest of the Oak Ridge complex, and so that

1 would be in line with those.

2 **DR. ZIEMER:** You would assume that they had one
3 per year --

4 **MR. HINNEFELD:** I don't know what
5 (unintelligible) --

6 **DR. ZIEMER:** -- or whatever --

7 **MR. HINNEFELD:** -- right now, probably --

8 **DR. ZIEMER:** -- whatever the assumption --

9 **MR. HINNEFELD:** Probably one per year, and at
10 that time I believe it was probably
11 photofluorographic examinations in Oak Ridge,
12 at -- for the -- certainly for the start. I
13 don't know if that would have continued through
14 1950, but certainly at the start.

15 **DR. ZIEMER:** Even though we -- we actually
16 don't have any evidence that they had that, but
17 that would be --

18 **MR. HINNEFELD:** Well, we don't have the expo--
19 like medical records for these folks --

20 **DR. ZIEMER:** Anyway --

21 **MR. HINNEFELD:** -- we don't have a detailed
22 description of what they did at S-50 for
23 medical monitoring.

24 **DR. ZIEMER:** Right. Thank you. Any further
25 comments, Board members? Lew, do you have a

1 comment?

2 **DR. WADE:** I'd like to make a comment before
3 you vote. I've asked Robert Presley to abstain
4 from voting on this petition. He does not show
5 in his waiver to be conflicted at ORINS, but
6 there seems to be in my mind some question as
7 to the boundary between S-50 and other
8 facilities at Oak Ridge, and therefore I think
9 it's in the best interest of the process that
10 he abstain, and I think he's graciously agreed.

11 **MR. PRESLEY:** And change the word "ORINS,"
12 though. It's not ORINS, it's K-25 -- or Y-12.

13 **DR. WADE:** Okay.

14 **DR. ZIEMER:** Yeah. Okay, any other comments,
15 Board members, or are you ready to vote?
16 Okay, by show of hands, all who support the
17 motion, say -- or raise your right hand.

18 (Affirmative responses)

19 And all here present, with the exception of Mr.
20 Presley who's abstaining, are voting yea. Mr.
21 Gibson, are you still on the line?

22 **MR. GIBSON:** Yeah, I vote aye.

23 **DR. ZIEMER:** Michael voting...

24 **MR. GIBSON:** Aye.

25 **DR. ZIEMER:** Aye, thank you. There are no

1 no's. The ayes have it. The motion carries.
2 Thank you very much. Thank you, Stu.

3 **SC&A TASKING**

4 **DR. WADE:** If we have time I'd suggest we get
5 into this issue of tasking SC&A for next year
6 on procedures and site profiles, just in case
7 there's work that needs to be done right away.

8 **DR. ZIEMER:** Now we're a little bit ahead of
9 schedule, and before we move to the conflict of
10 interest policy, we -- we have some sort of
11 carry-over work items. Let's see, let's --
12 let's -- yeah, we can begin with our SC&A
13 tasking and --

14 **DR. WADE:** Yeah, I would suggest we look at
15 SC&A tasking --

16 **DR. ZIEMER:** And I want to make sure -- is John
17 Mauro in the assembly when --

18 **MR. PRESLEY:** I just saw John with the
19 (unintelligible) take off down --

20 **DR. ZIEMER:** He's here and Joe is here so we --
21 I -- in case we needed to call on them, we --
22 make sure they're present.

23 **DR. WADE:** And my reasoning for wanting to do
24 this is just in case the Board, in its
25 preliminary discussions, requires some

1 additional information, we have the lunch time
2 to -- to do that. We have two tasks remaining
3 in front of us relative to SC&A's work for next
4 year. That relates to procedures that they
5 will review and site profiles that they will
6 review. And I would suggest we start with site
7 profiles.

8 I take you back to the -- the document that was
9 shared with you that listed the site profiles
10 that were completed and listed on the NIOSH web
11 site. We've added value to that by showing not
12 only the total number of cases, but the number
13 of cases that have been compensated -- no,
14 number of cases where dose reconstructions have
15 been done. We've added information of sites
16 where there are qualified petitions. You know,
17 we've added additional information about site
18 profiles under development. So there's a great
19 deal of information in front of you.

20 Yesterday you were beginning to come to grips
21 with this issue, but you wanted to wait, for
22 example, to see how the Chapman Valve situation
23 played out. So I would ask you to -- to pick
24 up your discussion on generating up to five
25 site profiles for SC&A to review next year.

1 **DR. ZIEMER:** Okay. Thank you, Lew, and as a
2 reminder, the tasking document that we are
3 working from for this upcoming year does
4 indicate five. That is in a sense a kind of
5 rough guideline because the capability may very
6 well, as John Mauro indicated, depend on the
7 nature of -- of the particular site and so on.
8 One might only be able to do four or six, but
9 for the present time it would be useful if the
10 Board identified up to five sites. We're not -
11 - we don't necessarily have to identify all
12 five today, or we could identify five in the --
13 and prioritize and get SC&A under way with the
14 possibility of, for example, changing our mind
15 later on on one that's down the list. But with
16 that in mind, and what I -- what I would
17 suggest we do is do this in kind of an open
18 discussion manner, try to get a feel for what
19 Board members think are the priority sites and
20 identify those, and then we'll see if we need
21 to narrow it down. In other words, indicate --
22 and you can do this individually -- what you
23 think is an important site or sites that we
24 should look at, and then we'll get input from
25 others. And we'll just -- let's see, I don't

1 know if Dr. Melius has his flag up out of habit
2 or if you're ready to start.

3 **DR. MELIUS:** No, that was left over from --

4 **DR. ZIEMER:** Left over, okay.

5 **DR. MELIUS:** -- probably early this morning.

6 **DR. ZIEMER:** I know that some made some
7 preliminary comments. Wanda, you had some
8 suggestions.

9 **MS. MUNN:** Yes, I did those yesterday.

10 **DR. WADE:** I can remind you of Wanda's
11 suggestions if you'd like.

12 **DR. ZIEMER:** Okay, let's -- let's jot those
13 down as starting point and --

14 **DR. WADE:** Wanda suggested K-25, Pantex,
15 Argonne National Lab West, Lawrence Livermore
16 National Laboratories, and Atomic
17 International, paren, Energy Technology
18 Engineering Center, close paren, as a starting
19 list of five.

20 **DR. ZIEMER:** What was -- what was the fifth
21 one?

22 **DR. WADE:** Atomics International --

23 **DR. ZIEMER:** Oh, yes.

24 **DR. WADE:** -- paren, Energy Technology
25 Engineering Center, close paren.

1 **DR. ZIEMER:** Okay. Now that's a starting five.
2 Let's get some comments, either concurrence or
3 indicate others that you think might be -- also
4 should be considered. Mr. Presley?

5 **MR. PRESLEY:** We know right off the bat that
6 Savannah River's number one. Is that not
7 correct?

8 **DR. WADE:** Right, Savannah River is the sixth,
9 to be re-evaluated.

10 **MR. PRESLEY:** Right, so it's going to be one of
11 the five.

12 **DR. WADE:** No, it's -- it's the sixth.

13 **MR. PRESLEY:** We're going to call it six, okay.

14 **MR. CLAWSON:** Could you go back over those
15 again? I kind of (unintelligible) writing
16 those, trying to mark them down.

17 **DR. ZIEMER:** Yes. Go ahead, Lew.

18 **DR. WADE:** Wanda's rec-- Wanda's recommendation
19 -- K-25, Pantex, Argonne National Lab West,
20 Lawrence Livermore National Laboratory, and
21 Atomics International, paren, Energy Technology
22 Engineering Center, close paren.

23 **DR. ZIEMER:** And Bob Presley's simply reminding
24 us that Savannah River is already in the queue,
25 is that --

1 **MR. PRESLEY:** Queue, that's correct. I would
2 like to add to those to be considered Iowa Army
3 Ordnance Plant. It looks like we've got a very
4 high number of claims there --

5 **MS. MUNN:** We've done that (unintelligible)?

6 **MR. PRESLEY:** -- and also I think we ought to -
7 -

8 **DR. ZIEMER:** Hold on just a second. Is this --
9 you know, we did a petition for Iowa.

10 **MR. PRESLEY:** Have we already done that one?
11 I'm sorry.

12 **MS. MUNN:** We've done that one.

13 **DR. WADE:** We did an emergency task --

14 **MR. PRESLEY:** I had that one circled.

15 **DR. WADE:** I'm sorry. For the record, we did
16 an emergency task of SC&A to look at the Iowa
17 Ordnance Plant site profile as part of the
18 detail work looking at the SEC.

19 **MR. PRESLEY:** Okay, I'm sorry. I would like to
20 add one of the -- the old assembly sites, which
21 is whatever you want to call it,
22 Clarksville/Medina or Medina/Clarksville. I
23 think that ought to be added. That's one of
24 the early assembly/disassembly sites.

25 **DR. WADE:** Now my notes show that

1 Clarksville/Medina is a site that's in -- the
2 site profile is underway, not completed. I
3 don't know, do we have a sense of when it would
4 be completed?

5 **MR. HINNEFELD:** Well, I don't have that date
6 with me, but I might be able to get it.

7 **DR. WADE:** Okay.

8 **MR. HINNEFELD:** So I don't know right off the
9 top of my head.

10 **DR. WADE:** Thank you. If you would get that,
11 Stu, as quickly as you could.

12 **DR. ZIEMER:** Okay. Brad?

13 **MR. CLAWSON:** After -- after seeing yesterday,
14 and I'm just throwing it out, I'd like to see
15 Chapman Valve re-- checked out.

16 **DR. MELIUS:** Yeah, Paul, I actually have -- I
17 really am up now.

18 **DR. ZIEMER:** Okay, we have a -- Dr. Melius.

19 **DR. MELIUS:** I would argue a little bit against
20 Chapman Valve given that they're already doing
21 the -- the SEC evaluation there. I think we do
22 one or the other, and I thought we had

23 determined yesterday to go with the SEC and --

24 **DR. ZIEMER:** Yeah, actually what --

25 **DR. MELIUS:** -- (unintelligible) --

1 **DR. ZIEMER:** -- will happen is they will end up
2 doing at least part of the site profile, as it
3 may pertain to.

4 **DR. MAURO:** Just to point out the -- Chapman
5 Valve is -- it's more what you would call an
6 exposure matrix. It's a relatively small
7 document and it is going to be thoroughly
8 reviewed as -- and it's not the equivalent of
9 what we all know to be a site profile, which is
10 usually several hundred pages of very complex
11 material. So bottom line is Chapman Valve
12 exposure matrix will be thoroughly reviewed as
13 part of the SEC review process.

14 **DR. ZIEMER:** Okay, thank you. So -- so we --
15 that'll take care of it, Brad. Okay?

16 **DR. MELIUS:** And then I'd like to suggest two
17 more. One's Portsmouth, there's a large number
18 of cases there and I think for that reason
19 alone we should evaluate it. And then the
20 other one was Sandia, which is on the list of
21 site profiles that's about to be complete and I
22 believe that --

23 **DR. ZIEMER:** Now you're talking Sandia
24 Albuquerque --

25 **DR. MELIUS:** That would be --

1 DR. ZIEMER: -- or both?

2 DR. MELIUS: -- correct.

3 DR. ZIEMER: Sandia Albuquerque.

4 DR. MELIUS: Sandia Albu-- we'll keep them
5 separate, Sandia Albuquerque. And I believe
6 that site profile is almost complete is what we
7 were told. Stu or somebody reported yesterday
8 and -- so I think it's appropriate to schedule
9 it this year. Again, there was I believe
10 around 200 to 300 cases there pending this one
11 when I asked yesterday.

12 DR. ZIEMER: 217 cases.

13 DR. MELIUS: Okay.

14 DR. ZIEMER: Okay. Yes, Robert.

15 MR. PRESLEY: Where do we stand on Pinellas?

16 DR. ZIEMER: Pinellas has already been
17 reviewed, I believe, we -- you should have that
18 one in your --

19 DR. MELIUS: Just got it recently.

20 DR. ZIEMER: -- collection of binders, white
21 binders at home.

22 DR. MELIUS: Yeah.

23 DR. ZIEMER: Others?

24 (No responses)

25 So right now I see seven suggestions. What we

1 might do is prioritize these and --

2 **DR. WADE:** Mike Gibson is trying to say
3 something.

4 **DR. ZIEMER:** Oh, Mike, yes. Sorry to ignore
5 you. Hang on just a second and we'll get you
6 hooked in here. Okay.

7 **MR. GIBSON:** Paul, this is Mike. Could you
8 read the seven sites to me, please?

9 **DR. WADE:** Okay.

10 **DR. ZIEMER:** Yeah, Lew will read them here for
11 you.

12 **DR. WADE:** I'll read them with attribution.
13 Wanda has suggested K-25, Pantex, Argonne
14 National Lab West, Lawrence Livermore National
15 Laboratory, and Atomics International, paren,
16 Energy Technology Engineering Center, close
17 paren. Robert Presley has suggested
18 Clarksville/Medina, that's a site profile in
19 progress. Stu's doing to get us a date. Dr.
20 Melius has added two, Portsmouth and Sandia
21 Albuquerque, Sandia Albuquerque a document in
22 preparation and we would await a date from Stu
23 on its completion as well. So that's the
24 eight.

25 **DR. ZIEMER:** Also just for the record, does

1 someone have the number of cases at the
2 Clarksville/Medina facility? Somehow I didn't
3 have that recorded.

4 **MS. MUNN:** No.

5 **DR. WADE:** No, it was not given to us.

6 **MS. MUNN:** We had Sandia, we didn't have
7 (unintelligible).

8 **MR. GIBSON:** Dr. Ziemer --

9 **DR. ZIEMER:** Okay, Mike, hang on. Okay, go,
10 Mike.

11 **MR. GIBSON:** I would like to add Lawrence
12 Livermore to that list, also, please.

13 **MR. PRESLEY:** That was on there.

14 **DR. ZIEMER:** I think Lawrence Livermore was on
15 -- is on the suggestions from Wanda that were
16 just read maybe -- maybe you missed that.

17 **DR. WADE:** It's on Wanda's list, Mike. We'll
18 add your check mark next to it.

19 **DR. ZIEMER:** Okay.

20 **MR. CLAWSON:** Could I just get a little bit of
21 information? I guess being new and everything
22 else, this Atomic International, where was that
23 and what -- what was it?

24 **DR. ZIEMER:** That's in California, is it not,
25 and maybe Stu can tell us a little more about

1 that.

2 **MR. HINNEFELD:** Sorry, I was sending a message
3 to the office. Which -- which site?

4 **DR. ZIEMER:** Atomics International, the ETEC.

5 **MR. HINNEFELD:** Okay. I want to focus the
6 title -- name on ETEC, Engineering Technology -
7 -

8 **DR. ZIEMER:** Engineering Center.

9 **MR. HINNEFELD:** -- Center -- Energy Technology
10 Engineering Center. It's in southern
11 California. It's -- now it's several specific
12 sites and they're more -- more precisely known
13 as Area 4 of the Sasquehanna Field Laboratory,
14 the Downey Facility, the Canoga Avenue Facility
15 and the DeSoto Facility. And they did -- it
16 was essentially research lab type of work on
17 fuel, irradiated fuel, things of that sort.

18 **MR. CLAWSON:** Thank you.

19 **DR. ZIEMER:** Okay.

20 **MR. HINNEFELD:** I think that's what they did.
21 There's a couple over there that I tend to get
22 confused.

23 **DR. ZIEMER:** Right, and that one is listed as
24 having had 261 cases.

25 **MR. HINNEFELD:** Reactor Development is one.

1 **DR. ZIEMER:** Reactor (unintelligible) --

2 **MR. HINNEFELD:** Reactor Development Research.

3 **DR. ZIEMER:** And also -- well, go ahead. Did
4 you have another one, Robert?

5 **MR. PRESLEY:** No.

6 **DR. ZIEMER:** Okay. Dr. Melius?

7 **DR. MELIUS:** I'm sorry.

8 **DR. ZIEMER:** Okay.

9 **DR. MELIUS:** I was just following Robert.

10 **DR. ZIEMER:** So right now we have eight
11 candidates, and we could prioritize these
12 perhaps and identify say the top five as our
13 initial list, if that would be agreeable,
14 unless anyone has additional ones to add.

15 (No responses)

16 Okay. Now let me suggest that you do the
17 following. This -- we'll see if this works.
18 Flag your top five, and then I'm going to ask
19 how many have flagged each one and we'll see if
20 we get any kind of consensus. Is that
21 agreeable?

22 **DR. WADE:** It's guaranteed to work.

23 **DR. ZIEMER:** Guaranteed to work. If we come
24 out with a tie...

25 Okay, so we now are all going to take just

1 about a minute and flag your top five.

2 (Pause)

3 **MR. CLAWSON:** Dr. Ziemer --

4 **DR. ZIEMER:** Yes.

5 **MR. CLAWSON:** -- clarify Savannah River for me.

6 Is it --

7 **DR. ZIEMER:** Savannah River --

8 **MR. CLAWSON:** It's already being done?

9 **DR. ZIEMER:** -- is already underway.

10 **DR. WADE:** Savannah River was reviewed in the
11 first batch of site profiles that SC&A was
12 asked to review, but that review has gone stale
13 in that there's an update to the site profile.
14 So Dr. DeHart, who was chairing the workgroup
15 on Savannah, asked that the contractor be
16 instructed to re-review Savannah River and
17 they're doing that as one of the six sites that
18 we're talking about this year, leaving five.

19 **MR. CLAWSON:** Leaving five, okay, I understand.

20 **DR. MAURO:** This might help a little -- might
21 or might not, I don't know -- the Savannah
22 River Rev 3 is -- has been reviewed as part of
23 the closeout process of the matrix. We set
24 aside a relatively modest budget for doing
25 that, and what I'm getting at is, for all

1 intents and purposes, that work is -- is comp--
2 you know, is completed within the original
3 budget we had for the others. So I -- I mean
4 it's -- reality is, the -- the Savannah River
5 one, number six, is in effect, for all intents
6 and purposes, being taken care of under the
7 closeout budget, not under this budget. So in
8 theory, we could probabl-- if you want to
9 entertain a sixth one.

10 **DR. WADE:** If the -- if the group prioritizes
11 eight, then I think we should hold open the
12 option for doing as many as we can under the
13 budget.

14 (Pause)

15 **DR. ZIEMER:** Okay, I'm going to see if -- if
16 you're all done flagging your favorite five.
17 Is there anybody that has not completed that
18 yet? And as I did mine I realized there's one
19 I wished were on the list, but I'm going to
20 hold off on it, but we almost overlooked
21 Pacific Northwest National Laboratory. But
22 we'll catch that one a later time.
23 Let's -- I'm going to go -- in my mind we did,
24 but that's -- put that down for number nine,
25 but I'm not going to vote for it right now.

1 Okay, let's start with Brad Clawson -- and Lew,
2 will you keep a tally here?

3 **DR. WADE:** Yeah, maybe we could just mention
4 the site and then show me if it's on your list
5 by hands, and then Michael, if you could
6 mention out loud if it's on your list of five.
7 So I'm going to say now K-25. I'd like
8 everyone here present who has that as one of
9 your five to raise your hand and Mike, for you
10 to verbally let us know.

11 **MR. GIBSON:** No, that's not on my list right
12 now.

13 **DR. ZIEMER:** We've got eight here.

14 **DR. WADE:** And Mike -- okay, eight for K-25.

15 **DR. ZIEMER:** Is Mike yes?

16 **DR. WADE:** Mike, did you say yes or no, please?

17 **MR. GIBSON:** It's not --

18 **DR. WADE:** Mike says no.

19 **MR. GIBSON:** -- on my top five. I actually
20 just --

21 **DR. ZIEMER:** No?

22 **MR. GIBSON:** -- have three right now.

23 **UNIDENTIFIED:** (Unintelligible)

24 **DR. WADE:** Say that again, sir?

25 (No responses)

1 Mike, could you repeat, please?

2 **MR. GIBSON:** Actually I just have three that
3 I'm concerned about. The other two are further
4 down on the list that, you know, I'm not as
5 concerned about.

6 **DR. ZIEMER:** Okay.

7 **DR. WADE:** Could you mention your three?

8 **DR. ZIEMER:** Mention -- yeah, give us all three
9 of your votes right now, Mike. That'll help.

10 **MR. GIBSON:** Okay. I think Lawrence Livermore,
11 Portsmouth and Sandia would be my top three.
12 Of the other two, I would be kind of open to
13 suggestion.

14 **DR. WADE:** Thank you, Mike. Okay, so K-25 we
15 have eight votes. Pantex, show of hands?

16 (Pause)

17 I make it at seven. Portsmouth?

18 (Pause)

19 Five, and Michael makes it six. Argonne
20 National Lab West.

21 (Pause)

22 One, two, three, four, five. Lawrence
23 Livermore National Laboratory? One, two,
24 three, four, five, six, seven, eight and with
25 Michael's it's nine. Atomics International,

1 one, two. And then we have Clarksville/Medina,
2 two.

3 **UNIDENTIFIED:** That's a nice number.

4 **DR. WADE:** Then we have Sandia Albuquerque,
5 one, two, three and Michael -- one, two, three,
6 Michael makes four.

7 **DR. ZIEMER:** Okay. Now if we can just order
8 those --

9 **DR. WADE:** Okay, at the top of the list with
10 nine is Lawrence Livermore. Second on the list
11 with eight is K-25. Third on the list with
12 seven is Pantex. Fourth on the list with six
13 is Portsmouth. Fifth on the list with five is
14 Argonne West. Sixth on the list with four is
15 Sandia Albuquerque. And tied for seventh on
16 the list is Atomics International and
17 Clarksville/Medina.

18 **DR. ZIEMER:** Okay, very good. Can we agree, as
19 far as our contractor, then that the first five
20 appear to be this year's task, recognizing that
21 -- unless we only want to go with, for example,
22 four right now. Let me ask John. If we gave
23 you all five, are you starting all five right
24 away? You would go sequentially anyway? So
25 for example, if we -- if we decided later that

1 we wanted to move Sandia up ahead of Argonne
2 West, that could be done later in the year.

3 **DR. MAURO:** That's fine. My inclination right
4 now is to start two immediately, so the first -
5 - the first two --

6 **DR. ZIEMER:** And I think what would be helpful,
7 as we progress through the year, when you get
8 ready to start, for example, the third one,
9 that you inform the Board and sort of say is
10 the priority still the same if something comes
11 up. Also recognize, for example, Clarksville
12 is seven, but we don't have a site profile for
13 them yet anyway, so that probably makes sense.
14 But we would have the ability to change the
15 priority if for some reason we wished to.

16 **DR. WADE:** But absent action by the Board, we
17 would ref-- I would then defer back to this
18 priority list.

19 **DR. ZIEMER:** Exactly.

20 **DR. WADE:** Okay.

21 **DR. ZIEMER:** Okay. Any objection?

22 (No responses)

23 Without objection, that would be the Board
24 action.

25 **DR. WADE:** And that means that Lawrence

1 Livermore and K-25 will immediately come under
2 SC&A's scrutiny, with the rest to follow as
3 appropriate.

4 That was fun.

5 PROCEDURES REVIEW

6 **DR. ZIEMER:** Okay. Then the next issue --
7 we're still okay on time I think -- procedures
8 review.

9 **DR. WADE:** So I take you to the tab of
10 procedures review and there you have a document
11 that looks like this and it was updated by John
12 Mauro, telling us the procedures that -- first
13 of all he told us of some procedures that had
14 already been reviewed under other task work by
15 SC&A, and then we added to the candidate list
16 TIB-- TIB-0-- OTIB-52 and OTIB-38. And then
17 John gave us a first blush priority setting by
18 SC&A of some, if my memory serves me, 22
19 procedures. Remember the capacity we built
20 into the contract for next year is 30. We
21 don't have to go with all 30. John has
22 indicated to me that if we would define ten or
23 so now, he could start the process, but we have
24 a preliminary list from John of 22. But then
25 the question was do those 22 look to NIOSH to

1 be substantial or are they administrative in
2 nature or -- Stu was going to give a bit of a
3 look-see to that proposal and recommend to us
4 ones that he would say refrain from including
5 at this point for reasons that he'll give us
6 now.

7 **DR. ZIEMER:** Okay, Stu.

8 **MR. HINNEFELD:** Okay, this is things I thought
9 of tod-- yesterday and today, so that's how
10 much I've been able to consult on this. The --
11 one of the recommended items is at the top,
12 about the fourth item on the first page, the
13 Program Evaluation Report on the effect of
14 adding ingestion to the Bethlehem Steel cases
15 is made -- is a pretty good one. The only
16 thing that gives me pause about that is there
17 will be an additional -- well, the entire site
18 profile for Bethlehem Steel has just recently
19 been revised, and all of those changes will be
20 incorporated -- along with the ingestion,
21 changes that were evaluated earlier in -- in
22 that Program Evaluation Report, so -- and some
23 portion of this work may be overcome by later
24 events. It may be that the later one rather
25 than the earlier one would be the Performance

1 Evaluation Report to review.

2 **DR. ZIEMER:** Stu, would it still be the 003?

3 **MR. HINNEFELD:** (Unintelligible) would be a
4 different number.

5 **DR. ZIEMER:** Different number.

6 **MR. HINNEFELD:** Right. I mean this is fine to
7 review and this is a technical question that
8 certainly was in front of the Board, so for
9 that reason it may be pretty good to see what
10 we did with that technical solution, so I'm not
11 saying that -- I don't have a very strong
12 opinion on that. That's just one piece of
13 information related (unintelligible) --

14 **DR. ZIEMER:** (Unintelligible) that it will be
15 revised.

16 **MR. HINNEFELD:** About mid-way down the page
17 when we get into the Technical Information
18 Bulletins you get to OTIB Number 6. Again,
19 that's a good one to review. It seems to be
20 frequently reviewed in dose reconstruction
21 individual reviews, so if -- if the SC&A team
22 feels like this would be a good procedure to
23 review, I think then go ahead with it,
24 recognizing that it also -- often is looked at
25 with the individual dose reconstructions.

1 Directly below that, OTIB Number 9, which has a
2 really nifty title, Reanalysis of the Hankins
3 MTR Bonner ball Surveys, is hardly used, if
4 ever at all, in our program. So there's
5 probably a limited utility of having a review
6 of this document which we hardly ever -- if
7 ever, use.

8 **DR. ZIEMER:** Was it simply developed for a
9 particular case and now it sits there or what -
10 -

11 **MR. HINNEFELD:** I believe it was -- it was very
12 early on -- it was identified very early on as
13 one that was written, you know, prepared, and
14 it had to do with -- I think it was a given
15 site where we had some survey data from these
16 Bonner balls that we thought may ultimately be
17 important to dose reconstructions and site
18 profiles, and I don't think it really turned
19 out to be -- that the information from those
20 surveys. And so it was -- you know, and so
21 that was kind of why it's there and why we
22 don't really use it very much.

23 The rest of the recommended ones on this page I
24 have no comments on. I think the internal
25 coworker datasets are probably pretty valuable

1 ones to review, whether it's an external -- any
2 of the coworker approaches are probably
3 valuable to the Board to take a look at.
4 Whether you wanted to do more than one internal
5 and more than one external, I have no real
6 opinion on that. But certainly I think the
7 approaches for coworker data are worthwhile to
8 review.

9 **DR. ZIEMER:** But 0021 which you just mentioned
10 -- is that the one you just mentioned?

11 **MR. HINNEFELD:** I -- I just -- speaking
12 generically about -- there are a number of
13 these --

14 **DR. ZIEMER:** Yeah.

15 **MR. HINNEFELD:** -- that are recommended that
16 are internal or external --

17 **DR. ZIEMER:** Right.

18 **MR. HINNEFELD:** -- coworker datasets, and I
19 think that's a good population.

20 **DR. ZIEMER:** Yeah. The 0021 I think John told
21 us has already been reviewed, so -- yeah.

22 **MS. MUNN:** (Off microphone) (Unintelligible)

23 **DR. ZIEMER:** Okay.

24 **MR. HINNEFELD:** Again, I have no comments on
25 the recommended items on page 2. A couple of

1 those are coworker studies. There's a -- the
2 OTIB-55 which describes conversion of neutron
3 quality factors from previous guidance to
4 current guidance. It's interesting. I think
5 the doses from the Y-12 criticality one is
6 relatively interesting.

7 On the final page where we're talking about
8 procedures, I'm -- I'm not terribly familiar
9 with the content of the first one there,
10 Procedure 59, which is peer review of dose
11 reconstructions. That might be somewhat
12 administrative, or it -- it may in fact be
13 technically -- technical content, so I guess
14 the best thing to do would be review it and
15 find out. And then on Procedure 86, I -- I
16 have a -- again, I'm not terribly familiar with
17 the detailed content, but I have quite a
18 suspicion that that is probably a little more
19 administrative than people think. I think
20 maybe the tactic would be to start the review
21 with the understanding that there may be other,
22 more worthwhile ones to look at. Because case
23 preparation -- I think that's the term that's
24 used, dose -- yeah, case preparation occurs
25 before the dose reconstructor sees it, so I

1 suspect it's somewhat less technical than the -
2 - than the title would indicate. May still be
3 worth -- I mean it doesn't mean it's not worth
4 looking at. And I think, again, the best
5 tactic would be start it with the idea that
6 gee, maybe this isn't the one we want to look
7 at, maybe there are other, better priorities.

8 **DR. ZIEMER:** And if it is all administrative,
9 what do we mean, in this case, by "case
10 preparation"? What -- what kind of
11 instructions would be in this?

12 **MR. HINNEFELD:** Case preparation is the
13 assembly of the data available for dose
14 reconstruction, and assembly (sic) it in a
15 particular fashion that the dose reconstructor
16 expects it. So if you're -- if you're
17 preparing a case for internal dose
18 reconstruction, there would likely -- the key
19 element likely is how should the bioassay data
20 be constructed, because it comes in many sizes
21 and forms and so it's probably a specification
22 so that that dose reconstructor doesn't have to
23 -- every time he picks up a case doesn't have
24 to discover how the information is being
25 presented to him. See, much data is keypunched

1 before it goes to the dose reconstructor and
2 the representation of that information to the
3 dose reconstructor is case preparation.

4 **DR. ZIEMER:** Okay, thank you, Stu. That's
5 helpful.

6 Board members, here you have 22 recommended
7 reviews from John Mauro, seven he indicated
8 that he's already covered. We have a
9 contractual case load guide number of 30. We
10 could -- we could go with up to 30. We -- we
11 don't necessarily have to identify 30 today.
12 We can -- we can proceed with the 22 that John
13 recommended based on his experience, or we
14 could add to this or delete, whichever --
15 whatever the Board pleases. So I open the
16 floor for comments, any suggestions or any
17 formal motions.

18 **DR. MELIUS:** Stu looks like -- I have a --

19 **DR. ZIEMER:** Other comment first, Stu?

20 **MR. HINNEFELD:** I actually learned this a
21 little quicker than I thought I would. Medina
22 and Clarksville draft has been delivered to us,
23 so if things follow their normal course it
24 should be available in a couple of months,
25 maybe a little longer than that --

1 **DR. ZIEMER:** Okay.

2 **MR. HINNEFELD:** -- 'cause there's a review
3 comment resolution process that could easily
4 take a couple of months.

5 **DR. ZIEMER:** Yeah, but we're not ready yet to
6 review it anyway, so --

7 **MR. HINNEFELD:** Okay, that's right, we're back
8 on -- sorry.

9 **DR. ZIEMER:** That's good.

10 **MR. HINNEFELD:** We've got Sandia, too. It'll
11 be slightly later.

12 **DR. ZIEMER:** But thanks, that's good to have
13 that information.

14 Dr. Melius?

15 **DR. MELIUS:** Yeah. You may recall I had
16 inquired yesterday in trying to get a complete
17 list of the procedures and what had been
18 reviewed and what hadn't, and that's not
19 readily available and so I would suggest that
20 we assign no more than 15 at this point in time
21 until we've seen the complete list and have a
22 little better handle -- and to -- I'm just
23 concerned we focus -- what would be the most
24 worthwhile reviews to do. I think we get John
25 and his team started, but reserve doing the

1 other assignments until we have that complete
2 list.

3 **DR. ZIEMER:** The suggestion is that we limit
4 the number at this point to 15. I don't know
5 if that's a formal motion, but let's at least
6 get some consensus and if we want to do that
7 then it would be -- that would be the first
8 step would be to cut the number down.

9 **MR. CLAWSON:** I think that's a wise idea till
10 we've got all the information to be able to
11 deal with. I'd -- I'd agree with him.

12 **MR. PRESLEY:** I agree.

13 **DR. ZIEMER:** Other comments, yea or nay? Any
14 feel strongly that we need to keep the number
15 higher than 15?

16 (No responses)

17 Apparently not. Might I suggest as a starting
18 point that we remove from the list, at least
19 for now, the OTIB-009 -- or 0009, which is the
20 Bonner ball survey, which apparently is hardly
21 ever used, if at all. That's the first step --
22 and perhaps the case prep one, simply eliminate
23 it right now. That'll get us down to 20. Any
24 objection to that?

25 (No responses)

1 Now we can either continue to eliminate from
2 that list or if there's something else that you
3 wish to add to it, let's do that as well.
4 Suggestions?

5 **DR. MELIUS:** Just refresh my memory. The
6 number 22 includes the 58 and the -- excuse me,
7 TIB-52 and -- which is the construction, and
8 38?

9 **DR. ZIEMER:** TIB-52 and TIB-38 are on the list
10 --

11 **DR. MELIUS:** Okay.

12 **DR. ZIEMER:** -- right. And also either John or
13 Stu, on these coworker data ones, let's --
14 starting with OTIB-26 and 34, 35, 36, 37, of
15 course a couple of tho-- three of those have
16 been done. I guess my question is, is there
17 some what you might call overlap if we do one
18 or two more of those? Would that be
19 sufficient, as opposed to doing them all? How
20 much -- maybe Stu, do you know -- I mean you --
21 you kind of hinted at the fact that there was a
22 lot of similarity amongst those procedures.
23 Maybe I --

24 **MR. HINNEFELD:** There's -- there's similarity
25 among approach. I guess I'm not terribly

1 familiar in terms of the datasets that went
2 into the approach, and there may not be
3 sufficient overlap that you would feel that
4 because of (unintelligible) --

5 **DR. ZIEMER:** Well, these tend to be site-
6 specific, so --

7 **MR. HINNEFELD:** Right.

8 **DR. ZIEMER:** -- maybe that also should guide us
9 in terms of things we have coming up --

10 **MR. HINNEFELD:** Right.

11 **DR. ZIEMER:** -- in terms of reviews and so on.
12 Dr. Melius.

13 **DR. MELIUS:** I'll take a shot at eliminating a
14 few more based on Stu's presentation to us. On
15 the first page the Bethlehem Steel one, 003,
16 why don't we hold off on that until we figure
17 out where we stand with the site profile
18 revision and so forth? It seems --

19 **DR. ZIEMER:** Any objection?

20 **DR. MELIUS:** -- seems that makes sense to me.
21 And again, the peer review of dose con-- on the
22 last -- third page, peer review of dose
23 constructions (sic), 0059, and case preparation
24 for complex internal dosimetry claims, 0086. I
25 think Stu thought -- mentioned those were both

1 probably administrative and --

2 **DR. ZIEMER:** Right, the 0086 was the one I had
3 already suggested we exclude --

4 **DR. MELIUS:** Yeah.

5 **DR. ZIEMER:** -- to get us --

6 **DR. MELIUS:** But I would suggest the other one
7 be eliminated, too, for the time being. If we
8 want to make a determination whether that's
9 technical and then add that in later on, I
10 think that would be fine to consider. But in
11 terms of getting started, I think if these --
12 these other ones may be higher priority.

13 **DR. ZIEMER:** This would get us down to 18 now.

14 **MR. PRESLEY:** You want to change your
15 recommendation to 18 instead of 15?

16 **DR. ZIEMER:** A lot of these are site-specific.
17 Some are more generic.

18 **DR. WADE:** John, just a question. On OTIB-
19 0040, external coworker dosimetry data for
20 Portsmouth Gaseous Diffusion Plant, might that
21 be looked at as part of the site profile we
22 just asked you to look at?

23 **DR. MAURO:** Yes, I -- to complicate things it
24 would -- it's good. It's not bad, it's good.
25 We were planning on reviewing the OTIBs as part

1 and parcel of the site profile reviews, so once
2 you've -- for example, to make things even more
3 confusing, once you've authorized us to do K-25
4 --

5 **DR. ZIEMER:** That brings these in.

6 **DR. MAURO:** -- that -- that -- we're going to
7 do -- we're going to do the -- all the OTIBs
8 dealing with K-25, so -- so in a funny sort of
9 way, we could take those off the list because
10 they're in effect covered under the site
11 profile review.

12 **DR. WADE:** Let's do that. Where are they?

13 **MR. PRESLEY:** K-25's 0026, OTIB-0026.

14 **DR. ZIEMER:** Does that mean that in -- in terms
15 of your tasking and billing, because really
16 what we're trying to do is what you might call
17 cost control in the system.

18 **DR. MAURO:** Yeah.

19 **DR. ZIEMER:** So it would actually -- if you're
20 reviewing it under the site profile aegis,
21 that's where the billing shows up then?

22 **DR. MAURO:** Yes. We are going to -- now that
23 you have given us the green light to do K-25,
24 we have in place the budget to do K-25 and when
25 -- included within the scope and that budget is

1 to not only to the TBD but to do workbooks and
2 to do OTIBs that are associated specifically
3 with K-25. So it makes things a little more
4 complicated in working our way through this
5 maze, but it means that a lot more could be
6 done for the same price.

7 **DR. ZIEMER:** Well, that means that OTIB-26 --

8 **MR. PRESLEY:** And 35.

9 **DR. ZIEMER:** -- and OTIB-35 immediately come
10 off this list because they get covered actually
11 -- I think there's a Portsmouth on here
12 somewhere --

13 **DR. WADE:** Two Portsmouths.

14 **MR. PRESLEY:** There's two Portsmouths, 36 --

15 **DR. ZIEMER:** OTIB-40 --

16 **MR. PRESLEY:** And 36.

17 **DR. ZIEMER:** -- and 36 also come off the list.

18 **DR. MELIUS:** And -- and while we're on -- in
19 the same mode, OTIB-57, which is external
20 radiation dose to -- estimates criticality
21 accident at Oak Ridge really should fall under
22 the -- I would think the review for the
23 workgroup that we're looking at the less than
24 250 days issue.

25 **DR. MAURO:** I'm sorry, ask that again. I

1 didn't quite follow it.

2 **DR. MELIUS:** The -- 57, which is external
3 radiation dose estimate for individuals near
4 the 1958 criticality accident at the Oak Ridge
5 Y-12 plant, wouldn't that be part of your
6 review on the evaluation we're doing, the less
7 than 250 days?

8 **DR. MAURO:** Oh, well, the -- yeah, in fact,
9 we've looked at all the criticality --

10 **DR. MELIUS:** So --

11 **DR. MAURO:** -- I mean it's not really a review
12 of the procedure.

13 **DR. ZIEMER:** Yeah, the --

14 **DR. MAURO:** See --

15 **DR. ZIEMER:** Yeah, Jim, I think here -- we
16 already allow for the criticality issue in our
17 250 days, and so workers exposed under this
18 automatically are taken care of as far as that
19 issue is concerned. This has to do with how --
20 how you're actually constructing the dose in
21 that particular criticality using the donkey*
22 data or whatever they have.

23 **DR. MAURO:** Yes. The fact that that data is
24 part of our criticality evaluation doesn't help
25 us review this procedure. That is, our

1 criticality evaluation draft -- which, by the
2 way, is -- is in draft form, includes all
3 criticality events and is -- it's really a
4 compendium --

5 **DR. ZIEMER:** Yeah.

6 **DR. MAURO:** -- which characterizes the nature
7 and extent of exposures, (unintelligible) have
8 actual experience and this is among them. But
9 this would actually be the review of the
10 procedure for reconstructing the doses, which
11 is certainly not part of the criticality
12 studies that we're doing as part of --

13 **DR. ZIEMER:** Right.

14 **DR. MELIUS:** Okay.

15 **DR. MAURO:** You see the distinction?

16 **DR. MELIUS:** Okay.

17 **MR. PRESLEY:** We're down to 14.

18 **DR. WADE:** We're at 14 now, so...

19 **UNIDENTIFIED:** Do you want to add one back?

20 **DR. ZIEMER:** You can add one back if you wish,
21 or we can --

22 **DR. WADE:** Go with 14.

23 **DR. ZIEMER:** -- I mean 50's not -- shall we
24 just go with 14?

25 **MR. PRESLEY:** Yeah, let's go with 14.

1 **DR. ZIEMER:** Let me ask now if anyone want--
2 are there any others that anyone wishes to add
3 that weren't on the original Mauro list?

4 **MR. CLAWSON:** We did get OTIB-52, right? Those
5 (unintelligible) --

6 **DR. ZIEMER:** That's on the list. Let's hear
7 from Michael Gibson. I don't know if --
8 Michael, if you have the starting list here. I
9 don't know what you were --

10 **MR. GIBSON:** No, I don't, but everything sounds
11 okay right now.

12 **DR. ZIEMER:** Yeah, okay. You're -- you're
13 going to trust the rest of the group here for
14 the moment, at least.

15 **MR. GIBSON:** Yeah.

16 **DR. ZIEMER:** Thank you, Michael. Then --

17 **DR. WADE:** You want me to read them?

18 **DR. ZIEMER:** Yeah, we'll read them here in just
19 a moment and if this is agreeable this will be
20 the list that we use to task our contractor as
21 far as proceeding with procedures review. So
22 this will be now the list of procedures to be
23 reviewed under the task for the upcoming year.
24 Not limited to, but the initial list.

25 **DR. WADE:** Okay, here we go -- and please

1 correct me if I miss -- OCAS-PER-004, OCAS-TIB-
2 013, ORAU-OTIB-0006, ORAU-OTIB-0013, ORAU-OTIB-
3 0015, ORAU-OTIB-0039, ORAU-OTIB-0055, ORAU-
4 OTIB-0057, ORAUT-PROC-0060, ORAUT-PROC-0099,
5 ORAUT-PROC-0095, ORAUT-PROC-0097, OTIB-52,
6 OTIB-38.

7 **DR. ZIEMER:** I have one question there. Did
8 you read an ORAU-PROC-0099?

9 **MS. MUNN:** He did.

10 **DR. WADE:** I meant to say that 97, I'm sorry.

11 **DR. ZIEMER:** Oh, okay.

12 **DR. ROESSLER:** But you said 97, too.

13 **DR. ZIEMER:** I don't --

14 **UNIDENTIFIED:** It should be 94.

15 **DR. ZIEMER:** Do you have 94?

16 **DR. WADE:** 94, 95 and 97.

17 **DR. ROESSLER:** Okay.

18 **DR. ZIEMER:** Okay.

19 **DR. WADE:** Sorry.

20 **DR. ZIEMER:** Okay.

21 **DR. MELIUS:** Lew's just getting ready for later
22 tonight.

23 **DR. WADE:** That's right.

24 **DR. ZIEMER:** Okay.

25 **DR. WADE:** I was doing so well, too.

1 **DR. ZIEMER:** Let me ask if there are any
2 objections to this list as the instruction to
3 the contractor?

4 (No responses)

5 Without objection, this then will constitute a
6 consensus of the Board for the contractor to
7 proceed on their procedures review task. Thank
8 you very much.

9 Now we'll return to the agenda. If I can find
10 my copy of the agenda we'll return to it.

11 **DR. WADE:** Here's one.

12 **CONFLICT OF INTEREST POLICY**

13 **DR. ZIEMER:** Conflict of interest policy.

14 **DR. WADE:** Okay, it's me back again with the
15 conflict of interest policy. You do have in
16 your book under the conflict of interest tab a
17 NIOSH statement of policy, conflict of
18 interest, revised draft, 14 September 2006.

19 Let me sort of give you a bit of context and
20 then talk about some issues.

21 First of all, what is this document? This is
22 the document that you have seen previous drafts
23 of. It has been modified to reflect comments
24 received from the last airing of it. What I
25 will go through and point out to you are the --

1 what I'm told are the most significant changes
2 in the document so you can relate to those
3 changes.

4 What this is not any longer, remember, is a
5 document that's intended to be applied to the
6 Board directly or to the Board's contractor.
7 Based upon comments received from the Board,
8 we've removed those entities from the list of
9 entities that this would be directly applied
10 to. We offer it to the Board for consideration
11 as it debates its own conflict of interest
12 issues, but this is not a policy that will be
13 applied, in its current form, to the Board or
14 the Board's contractor.

15 We did leave in the appendix to the document
16 the aspect that dealt with the Board and what
17 the remedies would be if a Board member was to
18 be conflicted. We can easily take that out.
19 We left it here so that there's a record of it.
20 It really is the only place it appears, so it's
21 in here, but again, this policy is not binding
22 on the Board in determining what is indeed a
23 conflict and if a Board member is conflicted at
24 a particular site.

25 What will happen with this is that I would say

1 Wednesday of next week -- I want to be
2 respectful of Board members' opportunity to
3 react to what I say today, but Wednesday of
4 next week I would recommend that the NIOSH
5 Director remove the "draft" from this policy
6 and make this the policy. The reason I -- I
7 don't want to give you more time than that is
8 we're starting to hear from ORAU
9 representatives, for example, that they're
10 awaiting this, and -- and it's too important to
11 keep them in a state of limbo. I think we need
12 to make this the policy and apply it to NIOSH
13 and NIOSH's prime dose reconstruction
14 contractors. It's always a document that can
15 be changed as we learn and as we go, but we do
16 need to get something in place so that the
17 important work of ORAU going through its past
18 work and attributing and evaluating and
19 reporting can be accomplished in earnest. So
20 again, Wednesday of next week I would suggest
21 to the NIOSH Director that he make this a
22 permanent document and instruct the contracting
23 officers involved to see that it's implemented
24 within those contracts.
25 There are four principal changes in the

1 document from one you last saw. I'll walk you
2 through those change fairly quickly.

3 The first is on the bottom of page 3, the
4 definition of operator was changed based on
5 comments we had heard, to be more -- to be more
6 realistic and precise, and I point you to that.
7 It's not a -- an overwhelming change, but it is
8 a change.

9 On page 11 there was a discussion -- this is in
10 "Disclosure," the last sentence where there --
11 there wanted to be some boundary put on
12 "business confidential". It was left undefined
13 before, so now it's (reading) "business
14 confidential" of the type permitted to be
15 withheld from disclosure within the Freedom of
16 Information Act.

17 So we'll link to the Freedom of Information Act
18 to try to put a boundary around what that
19 "business confidential" information could be.
20 Again, before it was open-ended.

21 Change number three you would find on page 5.
22 NIOSH has added a new gate, and that's 3.13,
23 (reading) If you have a subordinate
24 relationship to someone who has or had an
25 impact on the site, has a different person been

1 assigned (sic) to review your job performance
2 as it relates to the site?

3 This is called the Hinnefeld addition. If you
4 have someone like Stu who is conflicted at a
5 particular site, as he is at Fernald, the
6 policy before this addition would make everyone
7 who reported to Stu conflicted at Fernald and
8 therefore we would have no one left to do the
9 work or to sign off on the work, so this is,
10 again, a modification that was put in there not
11 to hide anything but to not allow this document
12 to paralyze our ability to move forward.

13 And the last is on pages 7 and 9, deals with
14 this issue -- it's a knotty issue, as well --
15 of whether you're looking at site profile,
16 Technical Informa-- excuse me, a site profile
17 Technical Information Bulletin that deals with
18 a single site or one that deals with multiple
19 sites. And let me make sure I'm pointing you
20 in the right direction.

21 (Pause)

22 So a key program function would be a site
23 profile that deals with a particular site.
24 What would not be a key program function is
25 shown on page 9, a multiple site Technical

1 Information Bulletin only. There will be gray
2 here, and that gray will have to be
3 administered as we go. What we're trying to do
4 here, again, is to not -- these generic
5 documents that we have that cover complex-wide
6 issues, we don't see them as being key program
7 functions. And again, we want to leave the --
8 leave open the capability of people working on
9 them. It would be the gray area where you have
10 two or three very particular sites covered by a
11 document. In my judgment, that would fall
12 under the category of a key program function
13 for those particular sites where the sites are
14 named.

15 So that's the document that we bring to you.
16 Again, the Board can comment -- collective or
17 individual Board members, I would anxiously
18 await your comments by --

19 (Sound blast and power failure)

20 **MR. CLAWSON:** Ray, did you hear that?

21 **DR. MELIUS:** Ray, come down from the ceiling,
22 please.

23 **DR. WADE:** We are trying to work on the sound
24 system issue generically, and I can speak to
25 that during our working time.

1 But this is the document. If individual Board
2 members want to comment to me by Monday or
3 Tuesday, I can try to be responsive.
4 Otherwise, we'll try to go final,
5 quote/unquote, with this on Wednesday.
6 Again, to point you towards the Board's own
7 work -- and that's the next agenda item -- when
8 -- when you consider conflict of interest for
9 the Board, there really are two steps. One is
10 a determination as to whether or not a conflict
11 exists, and I'd like to talk a little bit about
12 that. And then there is the issue of the
13 remedy, should a conflict be determined to
14 exist, and that's spelled out quite clearly in
15 the appendix to this document. What is left
16 open for your consideration is the discussion
17 of how would one determine if a conflict
18 existed.

19 Now what I've put in front of you as well is
20 this document.

21 **UNIDENTIFIED:** I -- I can barely hear them.

22 **DR. WADE:** I see.

23 **MR. GIBSON:** Right.

24 **UNIDENTIFIED:** I -- I can hear you very clearly
25 (unintelligible).

1 **DR. WADE:** Okay, we'll hold on, Mike --

2 **DR. BEHLING:** And I'm going to make that call.
3 (Unintelligible) cut off, but obviously we're
4 losing the volume (unintelligible).

5 **MR. PRESLEY:** That don't sound like Mike.

6 **DR. WADE:** No, that's -- that's Hans.

7 **DR. BEHLING:** I can hear Lew (unintelligible).

8 **UNIDENTIFIED:** Hi, Hans, how you doing?

9 **DR. BEHLING:** Okay. Let me -- let me try to
10 make that phone call.

11 **UNIDENTIFIED:** Okay, Mike.

12 **DR. BEHLING:** And I hope -- I hope that those
13 guys have their cell phones on, but we have
14 (unintelligible) --

15 **DR. ZIEMER:** Can we -- can we --

16 **DR. WADE:** Can Michael Gibson hear us?

17 **UNIDENTIFIED:** I don't have it. I don't have
18 (unintelligible).

19 **DR. ZIEMER:** Hans, we're hearing you on the
20 phone. I don't know if you're hearing us, but
21 --

22 **DR. BEHLING:** (Unintelligible) each independent
23 (unintelligible) I'll try to catch somebody.
24 I'll try to call John and Arjun --

25 **DR. WADE:** Can you -- can you shut that off so

1 we can't hear that? I'd rather not hear the
2 background going on on the telephone.

3 **DR. ZIEMER:** We're hearing the phone noise.
4 Hans Behling, if you're hearing us now, we're
5 hearing you with some side conversation, so you
6 need to mute your phone.

7 **DR. WADE:** Okay. Just to set the stage for
8 discussions that will follow, and I'm sure a
9 rigorous interrogation of me on many issues by
10 Board members, I've given you this document
11 that's entitled "Ethics Rules for Advisory
12 Committee Members and Other Individuals
13 Appointed as Special Government Employees."
14 This has been given to you before. Emily sent
15 it to you with a bit of an explanation. There
16 are two parts of that document that I use to
17 determine whether or not a Board member is
18 conflicted, and they appear on page 4, a
19 reference to 18 USC 208, and it says (reading)
20 Section 208(a), the main conflict of interest
21 statute prohibits an SGE from participating
22 personally or substantially in any particular
23 matter that could affect the financial interest
24 of the SGE, the SGE's staff --

25 **DR. BEHLING:** Mike and (unintelligible),

1 they're trying to straighten this out.

2 **DR. WADE:** -- minor child, general partner, an
3 organization in which the SGE serves as an
4 officer, director, trustee, general partner or
5 employee, or an organization with which the SGC
6 -- SGE is negotiating or with which the SGE has
7 an arrangement for prospective employment.

8 That's one of the key provisions that is used
9 to determine if an SGE -- that's you, a Special
10 Government Employee -- is conflicted.

11 The second, I take you to page 8, (v)
12 Impartiality --

13 **DR. BEHLING:** (Unintelligible) just for your --
14 your --

15 **DR. WADE:** -- and it says (reading) Although
16 committee members are prohibited under 18 USC
17 208 -- I just read that -- from participating
18 in matters in which they have a financial
19 interest, there may be other circumstances in
20 which a committee member's participation in a
21 particular matter involving specific parties
22 would raise a question regarding the member's
23 impartiality in that matter.

24 I won't read any further. Those are the two
25 key provisions that I use, guided by counsel in

1 the ethics office, in making the determination
2 as to whether a conflict exists for a
3 particular Board member with a particular site
4 or situation. It's open for the Board to go
5 beyond that in your deliberations if you would
6 like to develop guidelines for yourself that
7 clarify that, expand upon that. That's up to
8 you, and I leave that to you for discussion.
9 So that's the policy I've shared with you and I
10 wanted to give you the basis that I and the
11 people that support me make judgments as to
12 whether a conflict exists, and then say to you
13 if you would like it to be other than that, in
14 addition to that, more clearly than that, then
15 you need to develop those procedures for
16 your...

17 **DISCUSSION OF BOARD CONFLICT OF INTEREST POLICY**

18 **DR. ZIEMER:** Thank you, Lew. I'll open the
19 floor for questions or comments on what Lew has
20 just presented and also, in conjunction with
21 that, point out that in Appendix I, which deals
22 with the Advisory Board, it simply enumerates
23 what our practice has been in terms of what we
24 do if we are conflicted. It does not in fact
25 specify beyond the document Lew just referred

1 to as to what constitutes a conflict -- for
2 example, with respect to a particular site or
3 sites -- for Board members.

4 **DR. WADE:** Right. Just to finish the thought,
5 and I cannot find a transcript that deals with
6 the materials in Appendix I as an action taken
7 by the Board. If it exists, I need to have it
8 pointed out to me.

9 **DR. MELIUS:** When we discussed the policy I
10 believe on that conference call, we -- I recall
11 that we specifically voted on that Appendix.

12 **DR. ZIEMER:** Yeah, we agreed that the Appendix
13 I operation would in fact be how we would
14 operate with respect to --

15 **DR. WADE:** Thank you.

16 **DR. ZIEMER:** -- procedurally. It didn't deal,
17 again, with specifics on what constitutes --
18 how do we decide, for example, if -- if Ziemer
19 is conflicted at Y-12.

20 **DR. MELIUS:** Yeah.

21 **DR. ZIEMER:** So -- so those kind of issues are
22 still not spelled out per se for Board members.
23 Let me ask if there -- and Jim, do you have a
24 comment or question for --

25 **DR. MELIUS:** I have a number of questions. As

1 I recall, the Board in our letter to Dr. Howard
2 about this last draft we saw of the document
3 raised issues regarding corporate conflict of
4 interest, and I do not see those incorporated
5 here.

6 **UNIDENTIFIED:** Regarding what, Jim?

7 **DR. ZIEMER:** Actually there's --

8 **DR. MELIUS:** Corporate conflict --

9 **DR. ZIEMER:** Yeah, actually there's a statement
10 that was inserted, and I don't think Lew
11 referred to it, but I noted that they made a
12 change that said that it -- these referred to --
13 -- both to individuals and to corporate
14 entities. It includes that preface in both the
15 sample questions and in one other place.

16 **DR. MELIUS:** I would also add that I -- I would
17 -- if I were a corporation I'd have a lot of
18 trouble filling out Appendix 2. It's still --
19 the way the questions are worded and the way
20 that the Appendix conflict of interest
21 disclosure form is worded, I think it is still
22 difficult -- does not adequately capture
23 corporate conflict of interest. And I think
24 that's a deficiency.

25 **DR. ZIEMER:** Yeah. One of the places that it

1 showed up -- at least I think it was an attempt
2 to address that -- was the footnote on page 17
3 that says for -- and maybe this was the only
4 change. It says (reading) For purpose --
5 purposes of completing this form, you -- in
6 quotes -- refers to an individual or an
7 employer, depending on what party is completing
8 the form.

9 **DR. MELIUS:** Right, and --

10 **DR. ZIEMER:** And that -- that may not go far
11 enough, but --

12 **DR. MELIUS:** Yeah, that's --

13 **DR. ZIEMER:** -- that -- that was one change
14 that I saw, and I'm not sure you mentioned it,
15 Lew, but --

16 **DR. WADE:** No, I'm sorry, I didn't.

17 **DR. MELIUS:** I -- I think one thing that would
18 be useful for the Board to have as soon as
19 possible would be a redline version of this so
20 we can actually see what changes were made
21 compared to the last draft. Given the short
22 time you're giving us to respond to this, that
23 would be mo-- most helpful.

24 The second area which -- again, I'll ask you
25 'cause maybe I missed it -- was the -- this

1 whole issue of the document owner and
2 clarifying the responsibilities of that person
3 'cause this -- we pointed out in our letter
4 with comments that'll be -- that -- this whole
5 policy really revolves around that person and
6 that person's functions and so forth or ability
7 to -- you know, how they do their job duties
8 will be key to making this a successful or
9 unsuccessful program.

10 And then finally, going quickly, the section on
11 these Technical Information Bulletins, whether
12 they're single-site or multiple-site, the
13 clarification you provided was, I thought,
14 helpful, but I didn't see it reflected in the
15 document. I mean I think there is a gray area
16 and I think it would be helpful if the document
17 admitted that 'cause the document will be used
18 as instructions to people involved. And so
19 where there's a sort of multiple -- multiple
20 site document that really only affects one or
21 two sites chiefly, then I -- then I think there
22 has to be an individual determination made as
23 to how to handle that in terms of conflict of
24 interest issues, whether it's appropriate to
25 have someone who's -- who'll be conflicted on a

1 single-site document be involved in that. So I
2 think a footnote or something -- again, I don't
3 think it can all be spelled out 'cause I think
4 that can be a difficult area, but -- but it
5 should be referenced in some way.

6 **DR. WADE:** I think a footnote would be in
7 order.

8 **DR. ZIEMER:** And if I could take a moment and
9 turn briefly to the previous topic, I did want
10 to point out one other area where a change was
11 made relative to the corporate issue. It's the
12 footnote on page 3. It's called "Footnote 7"
13 and it says (reading) The term "you" is used
14 here to include both individuals and business
15 entities.

16 Those are the two places where I spotted at
17 least an attempt to make it clear that both
18 were covered. Whether the questions are always
19 appropriate, it's not necessarily obvious, but
20 at least they did indi-- have indicated here
21 that both corporate and individuals have to go
22 through this process.

23 **DR. WADE:** Thank you.

24 **DR. ZIEMER:** Jim, on your last point I just
25 want to clarify, are you talking for example a

1 -- a generic document on -- say it's on
2 something like neutron dosimetry and if the --
3 if the owner of that document happened to be
4 from Site X and that's the only site that's
5 really doing that neutron dosimetry, even
6 though it looks generic it might not really be.
7 Is that --

8 **DR. MELIUS:** Yeah, that's the whole point. I
9 mean I think it's where it really would apply.
10 The way they've written this, if it's site-
11 specific, if it only applies to that site, then
12 --

13 **DR. ZIEMER:** Even though it looks like a
14 generic document --

15 **DR. MELIUS:** Right.

16 **DR. ZIEMER:** -- if it really is more site-
17 specific --

18 **DR. MELIUS:** Right.

19 **DR. ZIEMER:** -- then that's sort of a
20 cautionary thing.

21 **DR. MELIUS:** Yeah.

22 **DR. ZIEMER:** I'm sure that that -- that the
23 conflict doesn't really exist when it appears
24 that it shouldn't.

25 **DR. MELIUS:** Yeah, that --

1 **DR. WADE:** I have that. We'll fix it.

2 **DR. ZIEMER:** Other comments for NIOSH? Then
3 the other thing we -- looking ahead, Board
4 members, we had some preliminary things done
5 toward developing -- or considering whether we
6 should develop a separate Board policy,
7 conflict of interest -- and keep in mind that,
8 number one, we are bound to these other
9 documents including the Federal Ethics Rules,
10 and we have also adopted these procedures in
11 Appendix I. But it would seem, at least it
12 would seem to me, that it would make sense for
13 us to have something that we would call our
14 Board policy, if it only included referring to
15 other documents. But I'd like to get some
16 feedback on that and then determine how we
17 might proceed.
18 What -- what is your feeling on having a
19 specific Board policy on conflict of interest?
20 Dr. Melius.

21 **DR. MELIUS:** Yeah, I think it may be helpful to
22 have one. However, I think it needs to be done
23 -- and the reason we -- we asked that it be
24 taken out of this document, it needs to be done
25 in the context of our positions as advisory

1 committee members and Special Government
2 Employees. So we really need to work off of
3 that context in terms of how we establish that.
4 And I for one am not sure I have ever
5 completely understood how our conflicts are
6 determined and -- and so forth. And what I was
7 hoping for, and I think I had specifically
8 asked for at one of the meetings where we
9 discussed this, is that we again have -- if
10 we're going to develop that policy, let's have
11 somebody come in who's expert in this area and
12 brief us again on -- on what -- how -- what
13 those requirements are and how they're
14 implemented. And then we'd develop a policy
15 that's -- that has to be consistent with that.
16 I think it would be a mistake to have a policy
17 that just references that, but is some way
18 inconsistent, because it would -- I guess only
19 going to cause us problems. We're going to be
20 following our policy when we're getting in
21 trouble with some other set of rules that we're
22 supposed to be following as FACA members and
23 Special Government Employees.

24 **DR. ZIEMER:** Other comments?

25 **MR. GIBSON:** Dr. Ziemer?

1 **DR. ZIEMER:** I would simply note --

2 **DR. WADE:** Mike -- Mike has a comment.

3 **DR. ZIEMER:** Oh, Michael Gibson. Okay, thank
4 you, Mike. Hang on.

5 **MR. GIBSON:** Excuse me. Just about ten or 15
6 minutes ago there was a loud noise on the line
7 and I lost all ability to hear the last of the
8 conversation on the last conflict of interest
9 policy concerning the NIOSH and ORAU policy, so
10 I -- I missed out on that and may have wanted
11 to make some comments. I don't know what went
12 wrong with the line, but Hans and Kathy and
13 some others -- Mel Chew -- had the same
14 problem.

15 **DR. ZIEMER:** Okay. Thank you, Mike. So --

16 **DR. WADE:** Mike, I will -- this is Lew Wade. I
17 will call you tomorrow or Monday and relate to
18 you that discussion.

19 **MR. GIBSON:** Okay. And if I have comments,
20 will they be placed on the record then?

21 **DR. WADE:** Yes.

22 **DR. ZIEMER:** Yes. Go ahead, Mike.

23 **MR. GIBSON:** If I have any comments after you
24 talk to me, Dr. Wade, could they be placed on
25 the record or the transcript (unintelligible).

1 **DR. WADE:** Yes.

2 **MR. GIBSON:** Okay. Thank you.

3 **DR. ZIEMER:** Well, I lost my train of thought
4 there. Oh, I -- I know what it was. This is -
5 - I'll use an anecdote to sort of illustrate my
6 concern.

7 Under the previous NIOSH policy which sort of
8 was extended to the Board, I was conflicted on
9 Y-12, although in reali-- and under the new
10 policy I would not be, the reason being that I
11 spent one week at Y-12 as a student. I wasn't
12 a worker there, I wasn't on their payroll, I
13 had no input on Y-12 policy, et cetera. I was
14 a student intern. And under the NIOSH new
15 policy that would be an exemption automatically
16 and I would not be conflicted. That was the
17 only conflict I had under the old policy.
18 Under the new NIOSH policy, if we were to apply
19 it to the Board, I would probably be conflicted
20 on every DOE site because of the position that
21 I held which, under their criteria, impacted
22 every site. So you know, I have a personal
23 feeling we need to define the parameters for
24 Board members, and I don't think they're
25 necessarily the same -- I hope they're not or

1 we may all have to resign. But somehow we have
2 to -- and maybe we need help, as Jim has
3 suggested, in figuring out what is the status
4 of an appointee such as this Board in -- vis a
5 vis the work that we're about.

6 **DR. WADE:** Right. And towards that end, Emily
7 Howell prepared and shared with the Board what
8 I think is a listing of all of the documents
9 that relate to this issue, so I think you have
10 all of the materials. How we better explain
11 them or expound upon them, you know, I await
12 your instruction.

13 **DR. ZIEMER:** Well, and it may be that -- and we
14 did at one point have a working group I think
15 that was looking at conflict of interest. Did
16 we have an official workgroup?

17 **DR. MELIUS:** Yeah, we had a workgroup that
18 prepared at least the comments on the last
19 policy. That was the one I headed and --

20 **DR. ZIEMER:** Yeah --

21 **DR. MELIUS:** -- Mike and --

22 **DR. ZIEMER:** -- it was an ad hoc --

23 **DR. MELIUS:** Ad hoc, yeah.

24 **DR. ZIEMER:** -- group. But we may want to
25 think in terms of a workgroup that could maybe

1 work together with legal counsel and others as
2 appropriate to develop a -- a framework that
3 would outline whatever parameters we need that
4 spell this out. But what is your pleasure,
5 Board members? Jim, you have a comment?

6 **DR. LOCKEY:** Just I think for the Board there -
7 - there is a difference between a conflict of
8 interest and a perceived conflict of interest.
9 I think there are two tiers that we need to
10 consider when we come up with our own policy.
11 I think there -- there can be a true conflict
12 of interest where you have a direct financial
13 involvement, but there's also a perception out
14 there of any perceived conflict of interest and
15 I -- I think in order for transparency, that
16 has to be laid out so everybody can see it and
17 then a decision made.

18 **DR. ZIEMER:** I suspect in most of our cases the
19 issue is not going to be one of financial
20 conflict, it's going to be one of bias and
21 impartiality --

22 **DR. LOCKEY:** Correct.

23 **DR. ZIEMER:** -- and that -- that will be the
24 issue whether it's a real or perceived
25 conflict.

1 **DR. WADE:** We do have certain situations where
2 a member might work with a representative group
3 of some type that might be involved in a
4 particular site, then -- then the first
5 provision I read to you kicks in. Most of the
6 judgments that I've made are based upon the
7 second, which is the bias consideration.

8 **DR. ZIEMER:** Thank you. Any other comments?

9 **DR. LOCKEY:** I -- one other comment. When I
10 looked at the -- at the ethic rules, when I
11 reviewed them in relationship to impartiality
12 in -- on page 4, 18 USC 208, they're fairly --
13 they're fairly clear in relationship to what --
14 what they think is a conflict. There's not a
15 lot of ambiguity there.

16 **DR. WADE:** Ambiguity comes in in terms of five.

17 **DR. LOCKEY:** I'm sorry?

18 **DR. WADE:** The ambiguity comes in in five,
19 impartiality.

20 **DR. LOCKEY:** Yeah.

21 **DR. WADE:** But those are the documents that are
22 used when the judgments are made as to the
23 Board's con-- Board members' conflicts.

24 **DR. ZIEMER:** Okay. Board members, how would
25 you like to proceed on this? Would you like to

1 have a Board policy developed, or would you
2 prefer just to ride as we are, which is kind of
3 -- we have the federal ethics documents to
4 which we are subject. We have the -- we have
5 the statement in the NIOSH policy which
6 describes how we operate. And then we simply
7 make a determination in each case or for each
8 SEC, we basically say okay, who has a conflict.
9 Some of these are not so difficult. You know,
10 Y-12 and a person who worked there, so some of
11 those are pretty straightforward. Jim?

12 **DR. LOCKEY:** You know, I think we should have a
13 Board policy, and I think we should have a
14 planned subcommittee to come up with a draft
15 that spells out what represents conflict of
16 interest for Board members.

17 **DR. ZIEMER:** What do others of you feel? I'd
18 like to get kind of a consensus if you --

19 **MR. CLAWSON:** I -- I agree with him. You know,
20 looking at this whole policy and stuff, there
21 could get to a point to where we could all be
22 sitting down there. It's -- there's got to be
23 a clarification, especially with the Board.

24 **DR. ZIEMER:** Robert?

25 **MR. PRESLEY:** I agree, but I do have a question

1 for legal. If we do come up with a policy,
2 will the federal government policy supersede
3 anything we do?

4 **DR. ZIEMER:** Yes.

5 **MS. HOWELL:** I want to be very clear about the
6 current policies that you guys -- that apply to
7 you all. Nothing that you do can absolve you
8 from having to apply with the rules of FACA and
9 the Special Government Employees that you've
10 been -- the information that you've already
11 received. We're talking about as an additional
12 conflict of interest policy that's specific to
13 this program. Because as you've seen, we have
14 some situations with previous work that aren't
15 necessarily a financial problem but an
16 impartiality issue, like Lew was saying, that
17 we need to cover. And there is -- there --
18 there is precedent for this within CDC and HHS,
19 and I think -- I'm not sure if Lew handed this
20 out to you or not, but another federal advisory
21 board, the Advisory Committee on Immunization
22 Procedures or Practices, ACIP, which is another
23 CDC advisory board, has written their own
24 conflict of interest policy specific to the
25 issues that that group deals with. And that's

1 what I think we're kind of asking you to
2 consider doing.

3 And this has also come up because you all have
4 been asking us lots of questions about these
5 waivers and how they're applied, because we
6 have the rules that we're having to follow
7 based on FACA and for Special Government
8 Employees and those ethics rules versus the
9 concerns that we have specific to this. And
10 everyone within the program is so concerned
11 about transparency and we just want to make
12 sure that you guys have a voice in how this is
13 applied to you.

14 So nothing that you do can prevent those FACA
15 rules and all those other rules from applying
16 to you. What we're asking for you to do is to
17 have a voice in how we go beyond that, just
18 like what we're doing with NIOSH and ORAU and
19 everyone else involved in the program.

20 **DR. WADE:** And I see it two ways, going beyond
21 or attempting to -- to bring clarity, too. I
22 think that's --

23 **MS. HOWELL:** Yes, yes, to clarify the
24 situation.

25 **DR. ZIEMER:** How do those FACA rules apply in

1 this particular case. And in any case,
2 whatever we came up with would have to, again,
3 pass the scrutiny of counsel and --

4 **MS. HOWELL:** Yes.

5 **DR. ZIEMER:** -- and I don't know what the
6 approval process is in this case. What -- it
7 would go up through CDC...

8 **MS. HOWELL:** Yes, it would go through CDC. It
9 would go through several layers within the
10 General Counsel's office.

11 **DR. ZIEMER:** Thank you. Any other comments?
12 I'd like to hear, pro or con, what Board
13 members are thinking here.

14 **DR. MELIUS:** I'd just add that it would be
15 helpful to get the immunization document that -
16 - can we --

17 **DR. ZIEMER:** Yeah, as a --

18 **DR. WADE:** We can forward it.

19 **DR. ZIEMER:** -- as a template as a start.

20 **DR. MELIUS:** As a template, then I think we
21 need to form a workgroup to -- we'll work off
22 of that and prepare a draft and I don't think
23 that workgroup necessarily has to meet a lot,
24 but I think some exchange of e-mails and
25 develop something, so...

1 **DR. ZIEMER:** I'm trying to get a consensus
2 here. I've heard from Brad and Jim and Jim.
3 Any -- ladies, over here? It's getting too
4 late in the morning to --

5 **MR. CLAWSON:** I agree with Wanda.

6 **MS. MUNN:** I don't feel I have anything of
7 value to add to the discussion.

8 **DR. ZIEMER:** Okay. There appears to be a
9 consensus to move toward developing our own
10 policy, in which case we would need a
11 workgroup, which we can call the conflict of
12 interest workgroup, that would take the
13 existing documents that govern us, a template
14 or templates that we can get from equivalent
15 bodies, and assistance from perhaps legal
16 counsel to develop at least an initial draft.
17 Again, the Chair is always interested in
18 volunteers for workgroups. Are there any that
19 are interested in participating in this
20 particular effort? Otherwise I can just
21 appoint --

22 **DR. MELIUS:** I'll volunteer.

23 **DR. ZIEMER:** Okay. Jim Lockey, Jim Melius, I
24 will volunteer myself, we can do -- just get
25 one more.

1 **DR. WADE:** You need to have a worker rep, I
2 think.

3 **MR. PRESLEY:** How about putting me on there? I
4 probably have more conflict of interest than
5 anybody.

6 **DR. ZIEMER:** Presley.

7 **DR. MELIUS:** We'll put you on, then we'll
8 conflict you out of the meetings.

9 **DR. ZIEMER:** Okay, that gives us four as a
10 starter.

11 **DR. WADE:** You wish to comment on chair?

12 **DR. ZIEMER:** Jim Lockey, would you be willing
13 to chair this?

14 **DR. LOCKEY:** What's that?

15 **DR. ZIEMER:** Would you be willing to chair
16 this?

17 **DR. LOCKEY:** Yes.

18 **DR. ZIEMER:** Okay. We have to spread these
19 loads around a little bit.

20 **DR. WADE:** Okay, if I could summarize. We have
21 a workgroup now to look at the Board's conflict
22 of interest policy chaired by Lockey, with
23 Melius, Ziemer, Presley. I've asked Emily to
24 share with you the model developed for the
25 immunization program. I'm sure she'll do that

1 very quickly. I'm also going to provide you as
2 quickly as possible -- hopefully today or
3 tomorrow -- with a redline version of the NIOSH
4 policy, and I'll commit to having words or a
5 footnote inserted to attempt to deal with this
6 issue of multiple site/one site, as discussed
7 by Dr. Melius.

8 **DR. ZIEMER:** Okay, thank you very much. That
9 gets us up to 2:30 this afternoon.

10 **DR. WADE:** Well, we have things to do at 1:30.

11 **DR. ZIEMER:** Yes, 1:30, conflict of interest
12 policy, but we have other things --

13 **DR. WADE:** We have other things to talk about -
14 - 1:30 we're back.

15 **DR. ZIEMER:** We are ready to take our lunch
16 break. We'll reconvene at 1:30.

17 (Whereupon, a recess was taken from 12:10 p.m.
18 to 1:45 p.m.)

19 **DR. ZIEMER:** We're ready to reconvene. As you
20 -- you saw the hookup being prepared for our
21 time-certain meeting with Senator Reid which
22 will occur at 2:30. We have some semi-routine
23 Board business to address before that occurs.

24 **BOARD WORKING TIME**

25 Let me begin with the minutes of several

1 different meetings, starting with the minutes
2 to the April 25 through 27 meeting, which was
3 the Denver meeting of the Board. I'd like to
4 ask if there are any corrections or additions
5 to the minutes of the Denver meeting.

6 Hopefully you've all looked at least at your
7 own remarks to see if they were both
8 intelligent and understandable and correct.

9 **MS. MUNN:** Understandable and correct, yes.

10 **DR. ZIEMER:** Any corrections or additions to
11 the minutes of April 25 through 27?

12 (No responses)

13 If there are none, I take it by consent that
14 the minutes are approved as distributed.

15 Next, the minutes of the Subcommittee for Dose
16 Reconstruction and Site Profile Reviews,
17 minutes of the meeting June 14th, 2006, that
18 meeting being the Washington, D.C. meeting of
19 that group. Are there any corrections or
20 additions to those minutes?

21 (No responses)

22 If not, without objection we'll declare that
23 those minutes are approved as distributed.

24 And then finally the minutes of June 14th
25 through 16th, the full committee -- full Board

1 meeting, also in D.C. Are there corrections or
2 additions to those minutes?

3 (No responses)

4 It appears that there are not. Then without
5 objection we will declare that those minutes
6 are approved as distributed.

7 I will thereby sign these minutes and make them
8 available. They will appear on the web site.

9 **MR. GIBSON:** Paul?

10 **WORKING GROUPS MEMBERSHIP AND STRUCTURE**

11 **DR. ZIEMER:** Next item I'd like to call
12 attention to, 'cause there was some confusion.
13 At our last meeting there was a subcommittee --
14 in fact, it's the very last page of the minutes
15 that we just approved -- not a subcommittee, a
16 workgroup, which is a workgroup to look into
17 SEC petitions that were not qualified -- and
18 I'm calling this the not qualified workgroup.
19 Only joking, Dr. Lockey. Anyway, we'll call it
20 the workgroup on -- on SEC petitions that are
21 not qualified. You may recall that there was a
22 question dealing with the content and decisions
23 made on those that were designated as not
24 qualified and we designated a workgroup to look
25 into that.

1 Just wanted to clarify two things. One is that
2 Dr. Lockey had volunteered to chair that. At
3 that time we named Dr. Roessler, Dr. DeHart and
4 Dr. Melius to that workgroup. We do need to
5 replace Dr. DeHart, and I do want to ask if
6 there's a volunteer to replace Dr. DeHart on
7 that particular workgroup.

8 And also in that connection, to clarify this
9 was a separate activity, we have an SEC
10 petition activities workgroup that was separate
11 from this. This is more of a one-time thing
12 that will just look at that issue on the past
13 not-qualified petitions and report back to us.
14 Are any of you interested in replacing Dr.
15 DeHart?

16 **MS. MUNN:** Certainly, I'll take that --

17 **DR. ZIEMER:** Okay.

18 **MS. MUNN:** -- responsibility.

19 **DR. ZIEMER:** We'll put Wanda Munn in as the
20 replacement for Dr. Hart -- DeHart, and name
21 Brad Clawson as alternate.

22 **DR. WADE:** I would suggest also we just add
23 Brad to the group.

24 **DR. ZIEMER:** Sure, that'd be fine.

25 **DR. WADE:** I think we need to have a worker rep

1 on that group.

2 **DR. ZIEMER:** And that -- that way you have a --
3 basically a five -- five-person group and if
4 necessary four of you can meet if you can't all
5 get together.

6 **MR. GIBSON:** Excuse me, Dr. Ziemer?

7 **DR. ZIEMER:** Yes, Larry.

8 **MR. ELLIOTT:** I'd like to let the working group
9 know that we are ready at any point in time
10 they want to schedule their -- their meeting.
11 We would ask that you do this in Cincinnati in
12 our offices. We'll have all of the individual
13 -- I think there are 26 now, I believe, maybe I
14 have that number wrong, in their twenties --
15 and it's our opinion it would serve y'all best
16 to have all of the documentation in those
17 individual stacks in our conference room.
18 Nothing will be redacted. Everything will be
19 in its entirety. We'll give you a briefing on
20 the process that has ensued here. And there's
21 also been a -- assessment done by my assessment
22 team. I'll provide that to you in abeyance of
23 your visit to Cincinnati so you can see this
24 assessment and what it has to say about this
25 procedure.

1 **DR. ZIEMER:** Thank you, Larry. And we'll leave
2 it then to Dr. Lockey to go ahead and arrange a
3 meeting time.

4 Michael Gibson, a comment or question?

5 **MR. GIBSON:** Yes. Dr. Ziemer, the volume is --
6 is again coming in fairly faint. I can hear
7 you a little better than yesterday, but
8 certainly not as good as earlier today. I
9 don't know if there's something that can be
10 done. I can hear the other conferees on the
11 phone fine, but I can't hear the process of the
12 Board meeting very well at all.

13 **DR. ZIEMER:** Okay, thank you, Mike. The sound
14 man here will try to correct that for us.

15 **DR. WADE:** And we will be better disciplined
16 with speaking clearly into -- clearly and
17 loudly into the microphone.

18 **DR. ZIEMER:** Okay, I'm -- I'm looking here at
19 other issues --

20 **DR. WADE:** You want to do workgroup assignments
21 or...

BOARD/WORKING GROUPS FUTURE PLANS

22 **DR. ZIEMER:** Yeah, maybe a quick review of the
23 working groups so that we have an up-to-date --
24 make sure everybody has an up-to-date list.
25 And Lew, can you give us a run down on the

1 various workgroups and their membership?

2 **DR. WADE:** Starting with the Subcommittee on
3 Dose Reconstruction, Chair, Mark Griffon;
4 members Poston, Presley, Gibson; alternates
5 Clawson -- I'm sorry, I did that wrong. Let me
6 start again.

7 Subcommittee on Dose Reconstruction, Chair,
8 Griffon; members Poston, Munn, Gibson;
9 alternates Clawson, Presley.

10 The workgroup on the Hanford site profile,
11 Chair, Melius; members Clawson, Ziemer, Poston.

12 The workgroup on the Chapman Valve SEC
13 petition, Chair, Poston; members Griffon,
14 Clawson, Roessler, Gibson.

15 The workgroup on SEC petitions, focusing on
16 250-day issue, Chair, Melius; members Ziemer,
17 Roessler, Griffon.

18 The workgroup looking at SEC petitions not
19 qualified, Chair, Lockey; members Roessler,
20 Melius, Munn and Clawson.

21 The workgroup on the Nevada Test Site site
22 profile, Chair, Presley; members Roessler,
23 Clawson, Munn.

24 The workgroup on the Savannah River Site site
25 profile, Chair, Gibson; members Clawson,

1 Griffon and Lockey.

2 The workgroup on the Nevada Test Site (sic) SEC
3 and site profile, Chair, Griffon; members
4 Gibson, Presley, Munn.

5 **DR. ZIEMER:** Okay, thank you. Any questions?

6 **MR. PRESLEY:** Two for Lew. What was that last
7 one?

8 **DR. MELIUS:** Last one is --

9 **MR. PRESLEY:** It's the last one, yes.

10 **DR. WADE:** The workgroup on Rocky Flats SEC and
11 site profile, Chair, Griffon; members Gibson,
12 Presley, Munn.

13 **DR. ZIEMER:** I think he said Nevada Test Site.

14 **DR. WADE:** Did I misspeak?

15 **DR. ZIEMER:** I think you may have said --

16 **MR. PRESLEY:** Nah, you're all right.

17 **DR. ZIEMER:** We got it. Okay, thank you.

18 **DR. WADE:** I would remind the Board that we now
19 have the issue of the procedures review.

20 Before, that was dealt with by the
21 subcommittee. Right now it's not assigned to a
22 working group, so you -- you'll have to think
23 about it at some point how you want to track
24 that.

25 **DR. ZIEMER:** Right, there will be a new set of

1 procedures and that will -- as that report
2 becomes available to us, a new review by SC&A,
3 then we will need a workgroup to work on that.
4 You'll notice also on the agenda, it's on the
5 3:00 o'clock slot -- of course we've completed
6 the conflict of interest issue which was at our
7 1:30 slot -- is the discussion of overarching
8 issues that span more than one working group.
9 This would be the issue of -- as an example --
10 oro-nasal breathing, which could show up in the
11 purview of a number of working groups. And one
12 of the issues would be how do we track that
13 when we may have several working groups looking
14 at -- that are site-focused, and how do we
15 track those kind of overriding issues or what
16 are called here overarching issues that may
17 span multiple working groups. And we don't
18 necessarily need to have a solution to that
19 today, but at least want to give some thought
20 to how best to track that and keep ourselves
21 informed of what's going on so that it doesn't
22 fall through the cracks and one group assumes
23 that another is looking at it simply 'cause
24 they're at another site where it is also an
25 issue.

1 And Lew, I don't know if you have any
2 additional thoughts on that structurally, but
3 that's the nature of -- of the issue.

4 **DR. WADE:** As I observe the working groups,
5 I'll hear often a working group pass off an
6 issue to another working group, to the Board,
7 to the subcommittee, to another entity. And I
8 think there are concerns that -- that's there's
9 an overall tracking going on of everything, and
10 that if such a handoff happens we're sure that
11 the issue isn't lost. And I think there is
12 concern. You know, a solution starts to be
13 some sort of mega-matrix of some type, a
14 compilation somewhere of all of the issues.
15 And even if they change flavor from one working
16 group to another, they are -- continue to be
17 tracked.

18 **DR. ZIEMER:** And one of the -- one of the
19 possibilities in this kind of an issue is in
20 fact to have one or more working groups --
21 there could be a working group that was
22 responsible for sort of the oversight of --
23 oversight of overarching issues, or something
24 like that. Or we could have individual
25 workgroups that are dealing with specific

1 issues, whether it be oro-nasal breathing or
2 neutron dosimetry or whatever the issue may be,
3 these sort of overarching kinds of things. I'd
4 kind of like to get some thoughts on it.

5 Wanda.

6 **MS. MUNN:** Well, as you all remember, this is
7 not the first time we've talked about this. As
8 a matter of fact, we've been talking about it
9 ever since we first recognized that we were
10 going to have recurring issues. I think Bob
11 Presley, in his discussion of what we've been
12 doing with NTS, indicated a half-dozen of those
13 complex-wide issues we've already identified,
14 including dose reconstruction covering all the
15 significant radionuclides, hot particles, oro-
16 nasal breathing, dosimetry limitations, badging
17 geometry, and assumptions that were made for
18 non-monitored workers.

19 I can't add anything new. At the outset I
20 believe that my suggestion was that essentially
21 a list be established of items that were being
22 tracked and that would reflect how many sites
23 were involved in this, with the assurance that
24 NIOSH could follow that -- essentially a master
25 deficiencies list -- so that as those things

1 closed, they could mark them off the list and
2 it would be a list that we would see on a
3 fairly routine basis as we move through the
4 remainder of the sites that have to be
5 addressed.

6 The reason I suggest that in that form is this
7 is clearly going to be a significant clerical
8 issue. There's going to be a lot of data-
9 following and entry and update that's required.
10 So far as I know, this Board does not have
11 access to the kind of clerical tracking
12 mechanism that would be necessary to do this.

13 **DR. ZIEMER:** Beyond the clerical tracking
14 mechanism, if an issue arises -- they often
15 arise first in a matrix, maybe as a result of
16 an SCA comment or maybe by initiative of NIOSH.
17 And at some point there are some technical
18 discussions. Now if -- if one workgroup says
19 well, this is already being covered by another
20 workgroup so we'll overlook it or sort of
21 concede to them -- the concern is that -- who's
22 really going to look at it. And aside from the
23 tracking issue, I would be concerned that we
24 make sure that we have the proper interactions
25 and it's almost like a separate matrix where we

1 have Board members, Board contractors, NIOSH
2 and its contractors looking at a specific issue
3 that's -- that is, you know, more than
4 individual site-wise but which is overarching.
5 And maybe we need a workgroup or workgroups
6 that would do that. And that is -- the
7 tracking has to be over and beyond that, but to
8 deal with the technical issues themselves is --
9 was the concern I had there. But -- and both
10 issues are of conc-- both the physical tracking
11 as well as the technical resolutions.

12 **MS. MUNN:** Although the concept of a workgroup
13 is an appealing one from the viewpoint of
14 administration, it would appear to be pretty
15 cumbersome in terms of time allotment for the
16 Board members themselves. I can't speak for
17 other members of the Board, but the time
18 allotment already required for our Board
19 activities is significant. I would find the
20 addition of yet another -- especially heavily-
21 chartered -- subcommittee or working group of
22 this kind to be extremely time-consuming.

23 **DR. ZIEMER:** Certainly a good point, and it may
24 be that we would need to simply make sure that
25 one of the workgroups had the lead on one

1 particular issue. Let's hear from others. Dr.
2 Melius, then (unintelligible) --

3 **DR. MELIUS:** Yeah, a couple points, and I
4 actually agree with Wanda on -- on this issue.
5 I'm not sure a workgroup is the -- at least the
6 proper first step to take in trying to address
7 this issue. Also remind us that the GAO report
8 made this is -- at least a subsection of this
9 is one of their recommendations in terms of --
10 of the Board didn't have a mechanism for
11 tracking issues and -- and so forth. And it
12 extends not only to what we do within
13 workgroups, but also some of the business
14 that's conducted at Board meetings where an
15 issue's identified in some way. We say well,
16 we'll put that on the agenda for a future Board
17 meeting and then, you know, a couple of SECs
18 come up and so next thing you know it's -- you
19 know, six months have gone by and we've all
20 sort of lost track of the issue or whatever.
21 And I think first we need to sort of solve the
22 way we're going to keep track of this and who's
23 going to be responsible for tracking that and
24 it -- to me, it's either, you know, Lew -- you
25 know, sort of the -- it's an Executive

1 Secretary function, which through, you know,
2 Lew with NIOSH staff, or it's something we have
3 to charge our -- our contractor with doing --
4 doing that. And I think both are in position
5 to possibly do that. Both attend in some ways
6 all of those workgroup meetings, so they --
7 they are present, they track what's going on
8 there. And I think if we had the clerical
9 function, sort of what are the key issues that
10 are being looked at in the different
11 workgroups, what's unresolved or needs to be
12 resolved, I think then we can decide is it a
13 proper place for a workgroup or is it something
14 we just need to spend the time at a Board
15 meeting and set aside -- aside the time to
16 discuss and figure out who has the lead and --
17 or do we form a new workgroup to deal with that
18 particular technical issue or what's the -- the
19 proper approach to take. But I really think we
20 need to solve the clerical, the tracking issue,
21 first or we'll -- will -- will not take place.

22 **DR. ZIEMER:** Let's get Brad and then we'll hear
23 from Larry.

24 **MR. CLAWSON:** I just -- being a new Board
25 member and everything else like that, the time

1 that is spent with a lot of these workgroups
2 and stuff, there's a tremendous amount of
3 information that we're going through. To me
4 and everything, we need to have one point of
5 contact that we need to address this to -- and
6 I agree with the -- the clerical issue on this,
7 but we need to have one point that we can also
8 address to with issues. Is this being handled,
9 like that oro-nasal or anything else like that,
10 one -- one individual that can go to speed at
11 that. But as -- as Board members, just looking
12 at it, our plates are pretty full.

13 **DR. ZIEMER:** Larry?

14 **MR. ELLIOTT:** I guess we had a different
15 perspective on this set of overarching issues.
16 My thinking -- and I just touched base with Stu
17 about this, too -- has been that we need to
18 come forward with a position paper, if you will
19 -- I'll just use that, I don't know what the
20 right term is, but it'll end up being a
21 Technical Information Bulletin or Basis
22 Document that will speak to what we are doing
23 with regard to one of these general overarching
24 issues. To me, that would be the starting
25 point. The Board needs to look at that, decide

1 what you want to do with it.

2 I think the obligation would then be on us to
3 make sure that we track the comment resolution
4 and make sure that not only in that matrix for
5 that given position paper on an overarching
6 issue we track it, but also we track it in
7 these other working group efforts where it's
8 pertinent and relevant to that particular site
9 or that issue, whether it's an SEC evaluation
10 or a site profile review.

11 So our thinking has been that we're obligated
12 to help the Board -- staff the Board, staff the
13 Designated Federal Official -- in doing this
14 tracking, and that's how we were thinking about
15 going about doing it. I don't know if that
16 helps or not, but --

17 **DR. ZIEMER:** So in the model you're just
18 suggesting there would be a number of such
19 position papers developed?

20 **MR. ELLIOTT:** Right. I don't think right now
21 you have a sense of where we're at on any of
22 this.

23 **DR. ZIEMER:** Right.

24 **MR. ELLIOTT:** Right? So where do you start?
25 You need something to start from --

1 **DR. ZIEMER:** Right.

2 **MR. ELLIOTT:** -- and I have to give that to
3 you, I believe.

4 **DR. ZIEMER:** And then from there, it appears
5 that you are suggesting that NIOSH would carry
6 the burden of the tracking of these issues
7 then.

8 **MR. ELLIOTT:** Yes, I am.

9 **DR. ZIEMER:** Thank you. Let's see, Wanda and
10 then -- then -- oh, Robert, we've got you, too.
11 Robert's next.

12 **MR. PRESLEY:** I agree with Larry on this 100
13 percent, because if you'll look at the first
14 thing we've got on here, dose reconstruction
15 covers significant nuclides, that was -- if I
16 remember correctly, we have marked that done in
17 our group because of the addition to the
18 nuclides for the NTS SE-- or site profile. I
19 mean I know that there's probably more to that,
20 but that's something that NIOSH could track and
21 keep up with. I feel that that's the place it
22 ought to be done.

23 **DR. ZIEMER:** Thank you. Wanda?

24 **MR. GIBSON:** Mike Gibson, I don't think
25 (unintelligible) --

1 **MS. MUNN:** One of the reasons it would appear
2 advantageous to have NIOSH tracking this is the
3 fact that they are the continuing agency that
4 will be following this program long after we
5 have ceased having the need for either a
6 subcontractor or continuing working groups as
7 we've had to this point.

8 The other consideration is we began this
9 discussion speaking only of overarching issues.
10 We have the same issue with site-specific
11 unresolved processes that we close out on our
12 matrix because the action is someone will do
13 something, and therefore the working group
14 closes it out. But where it goes then is, at
15 this juncture, undefined, so far as I know.

16 **DR. ZIEMER:** Thank you. Dr. Melius.

17 **DR. MELIUS:** Yeah. Again I agree with Wanda.
18 I think we have to capture both sort of what
19 are unresolved issues, but also issues we've
20 tagged that we're expecting there to be follow-
21 up on.

22 I don't object to NIOSH staff being the one
23 sort of developing this system and -- is
24 whatever posi-- you know, paper or whatever,
25 however it'll be -- sort of report or whatever.

1 I just think it's important that it reflect
2 issues that the Board has identified. There
3 actually may be other issues that NIOSH has
4 identified as becoming important, or through
5 your contractor -- I think it's important we
6 know about what those are and -- and address
7 those, but I think we'll need to keep this
8 focused on what the Board's issues are as -- as
9 we're reviewing with our -- with our contractor
10 on these issues, but having NIOSH do it, I --
11 somewhat the way Larry described it, I don't
12 think would -- I don't have any objection to
13 it. I think it would be fine.

14 **MR. GIBSON:** Dr. Ziemer?

15 **DR. ZIEMER:** Do we have -- oh, Michael I
16 believe has a comment from -- on the phone.
17 Mike?

18 **MR. GIBSON:** Yeah. Dr. Ziemer, this is Mike.
19 I agree with a lot of what has been said here
20 recently. My only comment would be that each
21 of the individual working groups are deeper in
22 the weeds as far as the issues for those
23 particular issues and sites and -- and things
24 they're covering. And I think that the working
25 groups and the chairman of the working group

1 should hear out NIOSH and SC&A and then the
2 working group should make a recommendation to
3 the Board as to the overarching issues and then
4 let the Board make a decision, you know, who
5 this point of contact is and whether or not,
6 you know, it is a -- an agreeable issue that's
7 site-wide, rather than having one side or the
8 other -- again, each -- each working group is
9 much more detailed into the -- the issues of
10 the specificular (sic) issues they're covering.
11 **DR. ZIEMER:** Okay. Thank you, Mike. Looking
12 for other discussion.
13 We have a -- we have a list or some lists that
14 begin to identify some of those issues -- the
15 complex-wide issues that were identified in Mr.
16 Presley's working group, and there may be
17 others. I don't know that this is an
18 exhaustive list, but perhaps is a starting list
19 -- dose reconstruction covers significant
20 nuclides, hot particles, oro-nasal breathing,
21 dosimetry limitations, badging geometry --
22 which may or may not be part of dosimetry
23 limitations -- assumptions for non-monitored
24 workers. There's -- there's a half a dozen
25 major complex-wide issues right there. There

1 probably are others. I'm wondering if -- if we
2 shouldn't, as a starting point, at least agree
3 to what issues come into this category and --
4 and then we can proceed, perhaps along the
5 paths that have been described with NIOSH
6 following up on the items that the Board
7 identifies as being of interest to it, and then
8 the tracking would -- would follow from that.
9 Board members, do you -- do you -- do you want
10 to prepare a preliminary list of such issues?
11 And this is certainly a starting list right
12 here. I suspect there will be others.

13 **MR. PRESLEY:** I think it'd be a good idea.

14 **DR. ZIEMER:** Wanda Munn.

15 **MS. MUNN:** Yes, we all have to start somewhere,
16 and that seems to be as good a place to begin
17 as any other. To the best of memory, those six
18 items have come up in the Rocky Flats context,
19 in the Nevada Test Site context, in the Y-12
20 context, and I believe one other -- I can't
21 remember which -- but that seems -- and I know
22 on at least two of those matrices those issues
23 are not really active for the workgroup simply
24 because there has been some NIOSH action
25 identified. It would be nice to have that

1 beginning to fold into whatever paper and
2 proposal NIOSH is going to bring to us.

3 **DR. ZIEMER:** Well, I believe we already have
4 some TIBs on a number of these.

5 **MS. MUNN:** Probably so.

6 **DR. ZIEMER:** And I don't know if -- if Stu or
7 Larry, off the top of your heads, can identify
8 -- how many of these six items are there -- do
9 we already have TIBs on? Hot particles, Stu --
10 and while you're thinking about that, Larry,
11 were the documents you were referring to, those
12 had the form of a TIB or a white -- what you
13 called a white paper or what -- what
14 conceptually are we (unintelligible).

15 **MR. ELLIOTT:** Yes, I think there'd be different
16 forms. Some of -- I think oro-nasal breathing,
17 for instance, we've -- we've addressed that to
18 a certain extent in a TIB, but some of the
19 others that are relatively newer, we may need
20 to provide a position paper that may become a
21 TIB once it, you know, gets vetted through this
22 process, so I -- I can't speak on -- Stu's
23 better served to speak on --

24 **DR. ZIEMER:** Yeah.

25 **MR. ELLIOTT:** -- where we're at with the

1 development of certain documents.

2 **DR. ZIEMER:** Okay. Well, shall I just take
3 these --

4 **MR. HINNEFELD:** Well --

5 **DR. ZIEMER:** -- one at a time?

6 **MR. HINNEFELD:** Yeah, let's do that, I can't --

7 **DR. ZIEMER:** Oro-nasal breathing.

8 **MR. HINNEFELD:** Well, there's specific activity
9 to address that. That'll be a work product
10 from a contractor that'll be delivered to us,
11 sort of a white paper type of thing where --

12 **DR. ZIEMER:** Not necessarily a TIB.

13 **MR. HINNEFELD:** Might be, might not be --

14 **DR. ZIEMER:** Oh, okay.

15 **MR. HINNEFELD:** -- but the delivery from them
16 probably will not be a TIB. We may write it
17 into that, but then that would have broad
18 applicability once we (unintelligible) --

19 **DR. ZIEMER:** Same on the hot particles?

20 **MR. HINNEFELD:** Probably not as far along, but
21 I think it would have to be the same type of
22 solution. I know it came up with respect to
23 Nevada Test Site specifically, but it would
24 have application otherwise -- other places, as
25 well.

1 **DR. ZIEMER:** Dosimetry, mixed dosimetry,
2 extremities, badging geometry -- probably a
3 number of dosimetry-related issues.

4 **MR. HINNEFELD:** There's -- there's some general
5 issues have come up a number of times about the
6 dosimetry in response to geometry issues, in
7 particular. In other words, uncertainty in
8 dosimetry readings beyond what laboratory
9 uncertainty would represent, and some things
10 like that would have to be addressed in one way
11 or another. There has been work done with
12 respect to some specific sites, like
13 Mallinckrodt, where some geometric -- or
14 geometry adjustments have already been adopted.
15 And it may be that what we would develop is a
16 sort of a general approach for a geometry
17 adjustment and ranges of adjustments that
18 would, you know, add uncertainty to the doses.

19 **DR. ZIEMER:** Would the construction worker
20 document be in this category?

21 **MR. HINNEFELD:** I think certainly that's in
22 this category and that TIB is published now.

23 **DR. ZIEMER:** Assumptions for non-monitored
24 workers?

25 **MR. HINNEFELD:** I'm not sure of anything that's

1 on -- in place right now to do that, but
2 certainly we can put that together, the
3 assumptions. We're pretty consistent in our
4 assumptions, but there's -- you know, somewhat
5 depends upon what you learn about a particular
6 site and -- and their activities and their
7 practices, so there would be -- there may be
8 some site-specific modifications to that based
9 upon what we learn from our research of the
10 site activities. So I'm -- I'm not -- I don't
11 know of anything that's going on in that area
12 right now. We are try-- we -- I think we tend
13 to address those as we learn, you know, about
14 the site based on what we've learned about the
15 site, I think.

16 **DR. ZIEMER:** The final one on this list is dose
17 reconstruction covers significant nuclides.
18 I'm not even sure I know what that means. I
19 mean I know what it means, but it's -- it
20 sounds so general, it's too general.

21 **MS. MUNN:** I can address that, if you don't
22 mind.

23 **DR. ZIEMER:** Okay.

24 **MS. MUNN:** The reason -- the reason for that
25 is, very frankly, if it comes up every site

1 that is -- is reviewed by our contractor, then
2 it seems to be an issue that we need to have
3 some document that makes it clear that NIOSH is
4 or is not addressing a full range, and why not
5 if not. I guess the major advantage to putting
6 these things to bed is preventing their
7 reoccurrence over and over again as we see the
8 site reviews.

9 **MR. HINNEFELD:** I think briefly, to describe
10 that, it would be an internal dosimetry issue
11 of course, since it's speaking about nuclides
12 and since that's relevant, and it has to do
13 with places where there's a -- you know, in the
14 first sense, there's sort of a witch's brew of
15 fission products, for instance, if you're
16 dealing at a place like Savannah River and
17 Hanford and does it -- the dose reconstruction
18 includes many radionuclides, but it wouldn't
19 necessarily, you know, include a specific dose
20 for hundreds of different fission products that
21 may exist in the workplace. So there would be
22 some bounding -- you know, some -- what are the
23 -- what are the worst -- what's the worst
24 dosimetric one, what do we know about it, is
25 this measurement relevant to the dose. So an

1 approach that describes an internal dosimetry
2 approach -- you know, what our internal
3 dosimetry approach in those cases is probably
4 what's being addressed here.

5 **DR. ZIEMER:** Now -- and Larry, go ahead.

6 **DR. MELIUS:** Paul, can I -- I would just
7 caution us let's not try to solve all these
8 issues, but I think the first thing to do is to
9 develop a way of -- a system of documenting
10 them and, you know, preparing a list. And what
11 I would suggest is that we circulate the list
12 that Bob prepared to the Board members. That's
13 -- we can add -- maybe others, Mark and -- is
14 not here today, might want to add to those.
15 Larry work with his staff to prepare, you know,
16 a similar list and John work with his staff
17 'cause they're involved in all these workgroups
18 that there are others there, then Larry working
19 with Lew can, you know, pull together sort of a
20 master listing and see if we can at least come
21 to general agreement on that. Then Larry can
22 proceed to, you know, sort of pull together --
23 here's the status of all these issues and might
24 be something we can talk about, either a
25 conference call or our December meeting.

1 **DR. ZIEMER:** I primarily want to make sure that
2 we know what the words on the list actually
3 mean --

4 **DR. MELIUS:** No, I -- I --

5 **DR. ZIEMER:** -- not to solve the problems
6 today. And we certainly could do that and I
7 just want to ask if there are any of these
8 where the kind of work product that you talked
9 about, Larry, has already been done so that by
10 the time of our next face-to-face meeting we
11 could embark on the process with one of these
12 topics.

13 **DR. WADE:** I have a process suggestion before
14 that --

15 **DR. ZIEMER:** Okay.

16 **DR. WADE:** -- but I would think that -- that as
17 part of Larry's presentation, his update, at
18 every Board meeting, I think this should --
19 this should be a regular item.

20 **DR. ZIEMER:** The cross-cutting issues.

21 **DR. WADE:** The cro-- and -- and at a minimum
22 present the list and status. This way we'll be
23 sure that there'll be some continuity. Jim
24 Melius is correct, sometimes an agenda
25 overtakes us and things get knocked off. I

1 think we want this on the agenda for each
2 meeting.

3 **DR. ZIEMER:** Right. Larry, go ahead.

4 **MR. ELLIOTT:** Certainly we -- certainly I'll be
5 happy to do that and add it to the
6 presentation. And yeah, we are talking a lot
7 about process and I don't want to promote
8 continued discussion of process, but I do want
9 to explain what I mean by a position paper, and
10 it goes somewhat to process, and answer at the
11 same time your question, Dr. Ziemer. I think
12 TIB-52 of course is ready. Oro-nasal breathing
13 is probably close behind that. And beyond
14 that, you know, I'm going to have to go shake
15 the trees and bring out my whip and start
16 beating people.

17 But I say a position paper because if it's --
18 let's just take the geometry issue. That may
19 result in a change to an existing Technical
20 Basis Document, like our external dose
21 implementation guide. So I don't want to keep
22 -- what I'm trying to avoid here is a -- a
23 process outcome where we add more and more and
24 more and more documents. I want to address the
25 documents that we have and modify them. So a

1 position paper would come out and perhaps then
2 be reflected one -- once we've got it all
3 resolved and we all agree on the right
4 approach, then we would go back and in the
5 appropriate document that's already in
6 existence we would make the appropriate
7 modifications and changes. Does that help your
8 understanding --

9 **DR. ZIEMER:** Yes.

10 **MR. ELLIOTT:** -- of why I put out a position
11 paper, (unintelligible) an idea?

12 **MR. PRESLEY:** Yeah, it's great.

13 **DR. ZIEMER:** Okay. There seems to be agreement
14 that we can start with this as a starting list.
15 We can add to it and come up with a final list,
16 and also perhaps begin the process with what is
17 available.

18 Any other comments? Another comment, Jim?

19 **DR. MELIUS:** No.

20 **DR. ZIEMER:** Okay.

21 **DR. MELIUS:** I was just trying to see if I
22 could see Wanda on TV, but...

23 **DR. ZIEMER:** We want to make sure we're ready
24 here within the next minute or two, prepare --

25 **DR. WADE:** (Off microphone) (Unintelligible)

1 quick item.

2 **DR. ZIEMER:** A quick item?

3 **DR. WADE:** Yes. Just to remind you all that,
4 you know, we have a call scheduled for October
5 18th. We have a face-to-face Board meeting
6 scheduled for December 11 through 13. We have
7 a call scheduled for January 11, have a face-
8 to-face meeting scheduled for February 7 to 9.
9 In terms of meeting locations, the December
10 meeting I would think would either be in
11 Pinellas or Denver, depending upon where we are
12 relative to Rocky Flats.

13 **UNIDENTIFIED:** (Unintelligible) the February
14 meeting?

15 **DR. WADE:** I would see the February meeting
16 either Denver or New Mexico, depending upon
17 where we are with Rocky Flats and then with the
18 Neva-- excuse me, LANL.

19 I will ask LaShawn to get out a query to you.
20 I would see us scheduling a call in the middle
21 of March, a face-to-face meeting in late April,
22 a call in the middle of June and a face-to-face
23 meeting in August. What LaShawn will do is ask
24 for dates and -- and find dates, and that will
25 get us out four meetings or more a year out and

1 I think that's appropriate.

2 **DR. ZIEMER:** Questions?

3 **UNIDENTIFIED:** Can you give us those dates for
4 -- this next meeting date again?

5 **DR. WADE:** A call on October 18th, face-to-face
6 meeting December 11 through 13, a call on
7 January 11, a face-to-face meeting on February
8 7 to 9. And then looking for a call mid-March,
9 face-to-face meeting late April, a call mid-
10 June, face-to-face meeting in August.

11 **DR. LOCKEY:** When was the call in October?

12 **MR. PRESLEY:** October 18th.

13 **DR. WADE:** 18th.

14 **MS. MUNN:** That's a long stretch in between
15 there.

16 **DR. ZIEMER:** Okay.

17 **DR. WADE:** To what -- okay.

18 **DR. ZIEMER:** It is almost 2:30. Let me make
19 sure our -- that the sound people are ready to
20 go.

21 Do I need to do anything on this box here?

22 **UNIDENTIFIED:** (Off microphone)

23 (Unintelligible)

24 **DR. ZIEMER:** It's on red.

25 **UNIDENTIFIED:** (Off microphone)

1 (Unintelligible)

2 (Pause)

3 **DR. WADE:** I mean I'm open for guidance in
4 terms of meeting locations. It seems to me if
5 we're -- when we're ready to do Rocky Flats,
6 it'd be nice to do it in Denver. When we're
7 ready to do LANL it'd be nice to do it in New
8 Mexico.

9 (Pause)

10 **MR. ELLIOTT:** A suggestion -- a friendly
11 suggestion from the audience here. Fernald has
12 an SEC petition that should come due early next
13 year as well, and Ray Beatty has suggested that
14 the Board might consider Cincinnati or that
15 area for -- because of the Fernald issue.

16 **DR. MELIUS:** It's a long flight for you, Larry,
17 I don't know.

18 (Pause)

19 **DR. WADE:** Just to keep us working, you know,
20 later -- once the Senator speaks to us -- we do
21 have Board correspondence and we do have the
22 letter that was received from Pete Stafford to
23 talk through, and that letter has been -- a
24 fresh copy redistributed to you. I know you
25 probably already have copies in your computer,

1 so that's something that looms in front of us
2 and there are issues there of tracking the
3 construction TBD and issues related to a
4 possible workgroup that Pete is suggesting, so
5 something to think about.

6 (Pause)

7 **MESSAGE OF SENATOR REID**

8 **DR. ZIEMER:** We'll come to order again. We're
9 pleased that Senator Harry Reid is able to be
10 with us today to address the Advisory Board on
11 Radiation and Worker Health. Senator Reid,
12 this is Paul Ziemer, Chairman of the Advisory
13 Board, and we're very pleased that you've taken
14 time from your busy schedule to address this
15 Board today. Would you please proceed with
16 your statement to us?

17 **SENATOR REID:** Board members, thank you very
18 much for allowing me to address this issue I
19 think that is so important of compensation for
20 Nevada Test Site workers who contracted cancer
21 from the work during the above--

22 **UNIDENTIFIED:** (Off microphone) We lost him.

23 (Pause)

24 **DR. ZIEMER:** Senator Reid, apparently we lost
25 you, but you might start again, if it's --

1 **SENATOR REID:** I'm happy to do that. Mr.
2 Chairman, Board members, thank you very much
3 for allowing me to address you. This is such
4 an important issue. It's very, very important
5 that -- to direct attention to the workers who
6 contracted cancer from work during the above-
7 ground nuclear tests. The veterans I thank
8 very much, atomic energy veterans, that are
9 here today I say to you directly, thank you for
10 your sacrifices you made on behalf of our
11 country, on behalf of our way of life. I
12 really believe it's because of your efforts
13 that we won the Cold War and democracy
14 triumphed. I and the nation are indebted to
15 you for your service and your true sacrifices,
16 so I'm honored to be here today to speak on
17 your behalf. Reminds me of the days when I
18 used to be a lawyer.

19 Ladies and gentlemen, we must include within
20 the Special Exposure Cohort Test Site workers
21 who contracted cancer from the work during the
22 above-ground nuclear tests, even though they
23 worked on the site less than 250 days. I am
24 sure that many of you, like me, watched those
25 nuclear explosions at the Test Site. I can

1 remember them so clearly. I was 50 miles way
2 or 60 miles away, more or -- further away than
3 you -- farther away than you because I was at
4 Searchlight, but I could still see them. I was
5 struck with awe as a little boy, maybe wonder,
6 at the power, strength of those tremendous
7 explosions and how did they come about. Man's
8 ingenuity. Even as a little boy, I figured
9 that out.

10 Little did any of us know the other side of
11 these tests. Exposure of men and women working
12 at the site and cancer-causing radiation and
13 chemicals. Now these men and women face deadly
14 cancers. Many have already died. Others are
15 just waiting for their country to acknowledge -
16 - acknowledge them. That's what they're
17 waiting for.

18 I worked six years to pass legislation to
19 ensure that the Department of Energy workers
20 and contractors who were exposed to radiation,
21 beryllium or even silica received compensation.
22 It was the right thing to do for those who
23 sacrificed their health in the service of our
24 country and now face these deadly diseases.
25 Yet Test Site workers who waited decades for

1 acknowledgement are being told they must wait a
2 little longer. Many tragically, as I've
3 already said, have died awaiting for the
4 compensation, stuck in a bureaucratic nightmare
5 of obstruction and delay.

6 Nevada Test Site workers, despite performing
7 this service for their country (unintelligible)
8 radioactive materials and having known
9 exposures leading to cancers have been denied
10 compensation -- a result of flawed
11 calculations, I believe -- based on records
12 that are incomplete or in error, as well as use
13 of faulty assumptions and incorrect models.
14 NIOSH itself acknowledges that it cannot
15 estimate the internal radiation dose received
16 by employees at the Test Site from '51 through
17 '62. Yet it's hard to comprehend, but they're
18 arguing that Test Site workers present for the
19 atmospheric tests, yet not employed for 250
20 days, don't deserve compensation.

21 Think about this. Under this rationale someone
22 who was present for all 100 above-ground tests,
23 and there were some there, would be denied
24 compensation even if for those 100 tests they
25 were right on the front lines. This isn't what

1 we intended. This isn't what Congress
2 intended. It's just unfair. Congress has
3 already designated classes of atomic energy
4 veterans at several sites as members of the
5 Special Exposure Cohort. For example, Amchitka
6 Island, Alaska is designated -- and I'm glad
7 they were designated -- because, though, of
8 three underground tests conducted on that
9 island. Alaska conducted three tests. Nevada
10 Test Site workers conducted 100 above-ground,
11 828 underground nuclear tests at the Site from
12 '51 to '92. That's almost 90 percent of the
13 nuclear tests conducted in the United States
14 were in Nevada. Yet these men and women have
15 been denied compensation. I believe they
16 deserve and deserve for decades, but it's just
17 unacceptable what we have now.

18 I helped write the law that created this
19 program, and I can tell you with certainty that
20 it was the intent of Congress, of me, of us,
21 that exactly this type -- this group of workers
22 be compensated under this program that we set
23 up. The men and women who worked at the Nevada
24 Test Site, I repeat, helped this country win
25 the Cold War. There were other factors. I

1 know that. But they sacrificed their personal
2 health in the process of giving so much. After
3 decades of waiting and suffering, it's time
4 that we honored these sacrifices.

5 Not only must we expedite compensation for the
6 atmospheric testing workers, but we must also
7 include within the Special Exposure Cohort the
8 Test Site workers during the more than 800
9 below-ground tests. Currently under review by
10 workers and experts is a petition drafted by
11 Test Site employees and my office that would
12 add these workers to the Special Exposure
13 Cohort. I really feel we need to do everything
14 we can. I -- I do not rest well and can't rest
15 well until these men and women get the respect
16 and I believe the acknowledgement they deserve
17 and that they've earned.

18 So Board members, join me -- I -- I really do
19 hope you can -- in supporting this cohort, the
20 men and women who fought with all of us in
21 moving forward this country. I urge this
22 Advisory Board. I appreciate your time here.
23 You're good Americans for doing this. I urge
24 you to do the right thing. I know you'll do
25 what -- what you believe is right. I hope,

1 though, this has helped, being in Nevada has
2 helped. I -- I hope that you can grant this
3 SEC for all atmospheric test area workers
4 employed at the Test Site for less than 250
5 days.

6 You know, any one of those 250 days could be
7 the reason that they're sick -- any one of the
8 250 days. Any week could be enough, any two
9 weeks, certainly 250 days is arbitrary and
10 capricious.

11 Thank you all so very, very much.

12 **DR. ZIEMER:** And we thank you, Senator Reid,
13 for taking time from your schedule to address
14 this Board. Thank you for your eloquent
15 remarks in behalf of your constituents here in
16 Las Vegas and in the state of Nevada.

17 Board members, I wonder -- I was led to
18 understand that there might be opportunity just
19 to ask questions if anyone desired. I don't --
20 he may have to be leaving. I don't know his
21 schedule. I think he's left. Thank you.

22 **UNIDENTIFIED:** (Off microphone)

23 (Unintelligible)

24 **DR. ZIEMER:** Well, let me ask if there are any
25 questions before we --

1 UNIDENTIFIED: (Off microphone) He had to
2 leave, I'm sorry.

3 | DR. ZIEMER: Okay, fine. Thank you.

4 UNIDENTIFIED: (Off microphone) My apologies.

5 DR. ZIEMER: No problem. Thank you.

6	(Pause)
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7 | Let's see, do we need a break?

8 DR. WADE: It's up to you. We can take one.

9 DR. ZIEMER: Let's take a brief break, ten
10 minutes, and then we'll -- the last item I
11 think before us is the construction worker
12 issue.

13 (Whereupon, a recess was taken from 2:43 p.m.
14 to 3:00 p.m.)

15	BOARD CORRESPONDENCE/BOARD WORKING TIME
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16 DR. ZIEMER: Okay, we're ready to reconvene.
17 The final item on our agenda deals with -- it's
18 called Board correspondence, and more
19 specifically we want to focus on the letter
20 that we received and which was distributed
21 earlier from Pete Stafford. And that letter
22 also has some links to comments made to this
23 Board earlier by Knut Ringen with respect to
24 construction trade and -- and related issues.
25 I do note that in connection with the Pete

1 Stafford letter, which was dated June 23rd, I -
2 - since -- since the letter came to us and I
3 have been in correspondence with Pete and told
4 him that his letter had been distributed to the
5 Board, that we discussed it briefly in our
6 August 8th meeting and that it would be on our
7 agenda today. And in the meantime the -- the
8 TIB on construction workers also has been
9 issued. There's a number of items in the
10 letter which relate to exchanges with NIOSH.
11 And to some extent, some of those have been
12 answered by the -- by the publication of the
13 TIB, and I know that Larry has provided figures
14 for us on numbers of dose reconstructions done
15 for construction workers and that's been in
16 some of the reported information. I'm not
17 certain whether that material got back to Pete.
18 Larry, do you know if it had? Or to Knut
19 Ringen in terms of the numbers of cases. I
20 know they've been -- there's been interactions
21 between you and -- and Knut Ringen's group.

22 **MR. ELLIOTT:** Yes, I've been in consistent
23 conversation and dialogue with Pete Stafford
24 about this since the Denver meeting. I have
25 provided them at three points in the time frame

1 since that meeting the status of the
2 construction workers TIB and the numbers of
3 claims that we have completed.

4 **DR. ZIEMER:** And then we heard from Knut Ringen
5 this -- this week that they now have I think a
6 working group of their own that's going to be
7 looking at the -- at the TIB and perhaps
8 offering comments on that to you directly.

9 **MR. ELLIOTT:** They have had that -- they have
10 convened that -- that panel of their experts.
11 These are folks that were also involved in the
12 early development stages of TIB-52, although
13 they weren't -- they helped us in the early
14 days, but they were not involved in the later
15 aspects of the TIB, so I chose my words
16 carefully on Tuesday when I made the
17 presentation, although Knut took exception to
18 what I had to say. I did not say that they had
19 written the TIB; they contributed to the TIB.

20 **DR. ZIEMER:** Yeah.

21 **MR. ELLIOTT:** So -- and they had sent me a
22 letter, which I will share with the Board as
23 soon as I get back in my office and provide you
24 all a copy of that letter with those -- those
25 concerns.

1 **DR. ZIEMER:** What remains I think in this
2 letter for specific response from this Board
3 are four items near the end of the letter where
4 Pete asks the Board to consider these four
5 items. And I'd like to bring these before the
6 Board with the question of how you would like
7 to proceed on these and do that in terms of not
8 only our own actions, but framing a response
9 for Pete as well.

10 Do all of you have copies of the letter? Okay,
11 if you'll refer to the four items, then I -- I
12 believe that this is where our focus needs to
13 be because I believe that the issuance of the
14 TIB and exchange with Larry deals with much of
15 the information in the preliminary part of the
16 letter. But Pete says in item one, since OCAS
17 expects to complete the TIB and soon, please
18 consider establishing a subcommittee to address
19 it. So that is the first item, where he has
20 asked if we would consider establishing a
21 subcommittee, I think in essence to review the
22 TIB.

23 Secondly, there's a request that SC&A
24 strengthen its expertise in construction worker
25 exposure estimation and that they do certain

1 things to evaluate. If -- if this is something
2 we want SC&A to do, we would have to task them
3 in some way or another, Lew, and Board members.
4 So we have to determine -- and in fact, the
5 issue of adding a -- I guess a sort of
6 consultant to their staff would also require us
7 to charge them or --

8 **DR. WADE:** They charge us.

9 **DR. ZIEMER:** -- request them -- they charge us.
10 We request of them; they charge us, yes.
11 And then the third item appears to me to ask
12 OCAS to do certain things. Although it's
13 addressed to us, it says OCAS should do certain
14 things. And I'm not sure how we would handle
15 that other than to indicate whether we agree
16 that that's a good idea or something of that
17 sort. It asks OC-- and to some extent I think
18 OCAS is doing some of this now, and we can come
19 back to that.

20 And then finally there's a request that in our
21 QA procedures -- and this would be QA
22 procedures I think on the dose reconstructions
23 -- that we evaluate and in a sense track the --
24 I think track -- basically what you would say,
25 what are the construction worker cases and the

1 -- and also have some way of evaluating or
2 determining distribution of cancers among them
3 and -- and other variables. We -- we knew up
4 front, as we tried to select cases, that the
5 job description was not one that we could sort
6 against, but after the fact -- after dose
7 reconstructions are completed, we are able in
8 many cases to identify, at least within broad
9 terms, whether or not people are construction
10 workers.

11 So those are the four items.

12 **DR. WADE:** Paul, could I --

13 **DR. ZIEMER:** I guess I would ask for general
14 comments and then we can treat them
15 individually.

16 **DR. WADE:** I think you need to look at number
17 two because there's some substance after the --
18 the initial SC&A -- it's asking for the
19 selection of a random sample of construction
20 worker DRs -- DRs for audit.

21 **DR. ZIEMER:** Right, and as I say, if we were to
22 do that, that still requires a tasking I think
23 of our contractor to do that.

24 **DR. WADE:** Right.

25 **DR. ZIEMER:** Right. It would be a specific

1 audit that would have -- have construction
2 workers as the selection criteria, but we know
3 from past experience that that's very difficult
4 --

5 **DR. WADE:** Correct.

6 **DR. ZIEMER:** -- because it's not a variable we
7 can sort against in the database.

8 But let me ask for general comments and then
9 we'll proceed. Dr. Melius, you have a comment?

10 **DR. MELIUS:** Yeah, I -- my first -- I would
11 suggest that we first answer these requests
12 positively and that we have charged SC&A with
13 reviewing TIB-52, I believe it is, and so that
14 review will be underway -- underway shortly.
15 And I think that's in essence the major request
16 and really addresses most of these issues. How
17 much we want to get into in terms of the
18 individual dose reconstructions, I think
19 there's sort of two answers. One is that we
20 already do rev-- are reviewing a substantial
21 number of construction worker dose
22 reconstructions. They just, by the nature of
23 our selection criteria, we only end up with
24 those. However, we are not able to select on
25 that basis.

1 And under number four -- I mean it's really
2 saying some of the same answers. We really
3 can't select on a number of those variables
4 'cause it's not in the -- the database that --
5 in the way that we do it and there's also I
6 think some technical reasons why we don't want
7 to do that in order to be able to do our
8 overall job properly.

9 **DR. ZIEMER:** But it could be pointed out that
10 after the fact we can identify those 20 cases
11 that were construction workers and the data
12 that could be provided after the fact -- I
13 think.

14 **DR. MELIUS:** Yeah, exactly.

15 **DR. ZIEMER:** Yeah. And when you say answer
16 positively, are you suggesting that we would
17 agree to establish a sub-- well, he says a
18 subcommittee; it might be a working group, but
19 a subcommittee --

20 **DR. MELIUS:** I would say that -- I think what
21 we already decided today was that we were --
22 once these procedure reviews got underway, we
23 were going to set up a workgroup that would
24 review SC&A's evaluation and then the whole
25 issue of how do we reconcile these with NIOSH's

1 comments and so forth. We haven't -- we didn't
2 establish that yet. We -- as I recall, we
3 decided we'd put that off until John and his
4 team had actually done this. I don't know if
5 we need a -- necessarily need a special --

6 **DR. ZIEMER:** Well, the first step would be the
7 review of the TIB, which comes under --

8 **DR. MELIUS:** Yeah.

9 **DR. ZIEMER:** It's already being tasked.

10 **DR. MELIUS:** Right, underway, yeah.

11 **DR. ZIEMER:** Right. So you're suggesting that
12 in the sense is the positive first step for the
13 first item --

14 **DR. MELIUS:** Right.

15 **DR. ZIEMER:** -- in any event.

16 **DR. MELIUS:** Yeah.

17 **DR. WADE:** And then once that TIB is in hand,
18 the Board has signaled its intent to form a
19 working group to review that review, as well as
20 others.

21 **DR. ZIEMER:** Okay, that's a sort of suggestion
22 there, and Wanda, you have additional comments
23 there?

24 **MS. MUNN:** Two thoughts. One, with respect to
25 item three, and having anyone investigate and

1 summarize malfeasance, bias, unmonitored -- I
2 mean unbalanced policies, these are the kinds
3 of charges which it's difficult to imagine is
4 inside the charter of this Board. That's
5 certainly not the technical issues that we were
6 chartered to undertake, in my view.

7 The second thought has to do with the pitfalls
8 of establishing a separate category of employee
9 type that we are looking at. We tried to
10 identify the fact that we have monitored
11 workers and we have unmonitored workers and are
12 trying to grapple with how we address those
13 things. I hesitate to begin to break out
14 operators, maintenance workers, security folks
15 -- you know, when we establish a special
16 category of individual that we're looking at,
17 it seems to me to be a real potential pitfall.
18 That should be considered very carefully.

19 **DR. ZIEMER:** Okay, thank you. Other comments,
20 either of a general nature or -- or how to
21 proceed, and some of you may wish to hit --
22 react to Dr. Melius's suggestion, as well.

23 **DR. MELIUS:** I actually have a reaction to
24 Wanda's suggestions.

25 **DR. ZIEMER:** Okay.

1 **DR. MELIUS:** I think what's being referred to
2 there is -- I think what was unbalanced was the
3 fact that many of the construction workers, and
4 there are other workshop categories that fall
5 into that, worked for subcontractors rather
6 than the primary contractors, and there are
7 often different monitoring policies and even
8 radiation protection policies --

9 **DR. ZIEMER:** (Off microphone) Or no
10 (unintelligible).

11 **DR. MELIUS:** -- or no -- I mean -- yeah,
12 putting it -- for -- for those, and so that's
13 what I think is referred to as unbalanced. I
14 think that we actually already address those on
15 -- at individual sites. For example, on Rocky
16 Flats it's to sort of data integrity issues,
17 but it's all -- it's very site-specific and we
18 view it as an overall issue, not necessarily an
19 issue just for a particular group, but it's
20 sort of where -- who does it apply to in a --
21 at a particular facility and -- and so forth.
22 I -- I agree we -- I don't think we want to try
23 to do any sort of overarching investigation of
24 that. I don't think that's necessarily our
25 charge. But I think we can say that we do --

1 as part of our normal procedures we do address
2 that where it's appropriate.

3 **DR. ZIEMER:** Other comments or suggestions on
4 moving forward on this?

5 (No responses)

6 Dr. Melius's suggestion is a positive one in
7 terms of trying to be sensitive to the needs of
8 the construction worker group while recognizing
9 our own limitations and what we and our
10 contractor and NIOSH are able to do. And that,
11 coupled with the status of the new TIB that's
12 out and the provision that NIOSH has made in
13 keeping them apprised of the statistical data
14 actually as -- as it comes out, I think goes a
15 long way to addressing the concerns at the
16 front end anyway. And in talking to Knut
17 Ringen this week I got a sense that they --
18 although they -- they still want to take a hard
19 look at the TIB, they I think recognize that --
20 that this issue -- these issues are being
21 attended to as best we're able. I hope I'm not
22 mis-- I'm not trying to quote Knut, but I got a
23 sense that they recognize that we are trying to
24 address these issues as best we're able.
25 Another comment?

1 **DR. MELIUS:** I was just going to say I think
2 that's a fair statement.

3 **DR. ZIEMER:** Then if it's agreeable, I will
4 prepare a response to Pete -- and we'll
5 distribute it to everyone -- which will
6 indicate that we will -- we will begin, with
7 our contractor, reviewing the TIB on
8 construction workers. We'll -- with respect to
9 the COI, I can simply point out we are
10 developing a Board COI policy. I'm certainly
11 not going to make any commitments that it's
12 going to specifically call out things here, but
13 certainly we will consider on our end of it
14 what -- what conflicts we need to take into
15 consideration. We already have in place QA
16 procedures and we will be able to look -- after
17 the fact, at least -- as -- as to what is --
18 what some of these variables are on the
19 construction workers as a matter of record for
20 their interests. I will prepare a general
21 letter along those lines. Would the Board wish
22 to see a draft before we finalize it? Perhaps
23 I should send a draft out --

24 **MR. PRESLEY:** Yes.

25 **DR. ZIEMER:** -- and give you a chance to --

1 **MS. MUNN:** It would be helpful.

2 **DR. ZIEMER:** I don't want to conduct business
3 by e-mail, but the general nature has been
4 agreed to so I'll be looking for editorial
5 changes only rather than conceptual changes.
6 Without objection, we'll proceed on that basis
7 then.

8 **MS. MUNN:** That's fine.

9 **DR. ZIEMER:** Dr. Wade, do you know of any other
10 correspondence that we need to address? I
11 think that was the only backlogged one. Most
12 of the other correspondence, such as the letter
13 from Senator Kennedy and others, were
14 informational and were not asking for specific
15 responses at this time.

16 **DR. WADE:** Let me just ask Jason Broehm.
17 Jason, are there any -- Congressional
18 correspondence outstanding as far as you know?

19 **DR. ZIEMER:** That -- that -- particularly that
20 require responses.

21 **MR. BROEHM:** I'm not aware of any, no.

22 **DR. WADE:** Good.

23 **DR. ZIEMER:** Thank you. Are there any other
24 matters that need to come before the Board at
25 this time?

1 **MR. PRESLEY:** I'd like to bring something up,
2 please.

3 The last two or three days we have heard from
4 quite a few people from the general public
5 discuss that they've had problems with their
6 correspondence back and forth. And when we
7 have talked to them and when we have asked
8 them, it always points back toward -- I hate to
9 say it -- the Department of Labor. And we -- I
10 think that we talked to them about a year ago
11 about this same matter, and I would like to go
12 on record as asking that we notify the
13 Department of Labor and ask them to do whatever
14 is possible for them to clean up some of their
15 excess correspondence and some of the
16 correspondence that some of these people are
17 getting that's -- I don't know where you say
18 not needed or -- or what it is, but it seems
19 that a lot of the people, the petitioners, are
20 having quite a bit of problems with the
21 Department of Labor on some of their -- their
22 documents that the Department of Labor's
23 sending out asking for. And I think we need to
24 go on record as saying something to them about
25 this. We've had -- we've heard from too many

1 people this week -- this last three days.

2 Thank you.

3 **DR. ZIEMER:** Thank you, Robert. I'd like to
4 get some other reactions to that. I think I've
5 been hearing similar things, and of course I'm
6 not sure if there are particular pieces of
7 correspondence that can be identified as form
8 letters or whatever it might be that are the
9 ones that are causing the greatest concern. We
10 heard a couple of letters quoted to us that
11 appeared simply not only to be confusing, but
12 perhaps not even correct. But any other --
13 Larry, maybe you can help us on this. What do
14 we need to do to -- beyond --

15 **MR. ELLIOTT:** That's all that I'm
16 (unintelligible) --

17 **DR. WADE:** Go sit down.

18 **MS. MUNN:** I'm leaving.

19 **DR. ZIEMER:** Can we get your contractor to work
20 on the Labor Department here?

21 **MR. ELLIOTT:** Jeff's not here, but I applaud --
22 applaud your taking this up, and I -- you
23 know, when I hear these things in public
24 comment, you may see me pull that individual
25 aside. I think you've seen me do this at many

1 meetings. I want to verify that it's not our
2 correspondence. And each and every time that
3 I've heard this -- and it's unfortunate that I
4 don't see Cindy and I don't see Richard and I
5 don't see Jeff Kotsch in the audience, but I
6 hope they'll read this part of the transcript.
7 It's unfortunate that every time I verify
8 what's going on here, it's not a NIOSH
9 correspondence. You've heard this in -- I
10 believe we heard it in Knoxville. I think we
11 heard it in D.C., and I take it back. I go
12 back to Pete Turcic and I say here's another
13 instance where we've heard that there's been a
14 mixup in personal, privacy-related information.
15 And if it's on my watch, I'm on top of it and I
16 want to stop it right then and there 'cause I'm
17 the responsible party here for the Privacy Act
18 control of what we do in a dose-reconstruction
19 effort. And I think DOL and Pete Turcic has a
20 similar responsibility in dealing with these
21 issues in their correspondence.

22 So I just want to get that on the record, that
23 when I see and hear these things, I follow up
24 with the individuals. And if it's a NIOSH
25 issue, I assure you I'll let you know that

1 we've messed up and how we've corrected it. If
2 it's a DOL-related correspondence issue, I
3 assure you I go back to DOL and I talk to them
4 about it.

5 **DR. ZIEMER:** Let me ask Lew or Lar-- probably
6 Lew a question, and this is sort of a protocol
7 type of question. But for example, if this --
8 and this Board basically advises the Secretary
9 of Health and Human Services. Would it be out
10 of order or cause a problem if we were to ask
11 him to request that his counterpart, the
12 Secretary of Labor, address this issue? Now I
13 -- I -- at the same time I want to be careful
14 that we're not sort of blind-siding Pete and
15 his folks so that -- I mean they -- they need
16 to have the opportunity to correct this before
17 we go way over their heads, so maybe that would
18 be a last resort. But -- or maybe we should
19 indicate to Pete that this Board is considering
20 that if -- if the issue doesn't get corrected.
21 What -- can you --

22 **DR. WADE:** Well, I can --

23 **DR. ZIEMER:** -- advise us on that without
24 getting yourself into trouble?

25 **DR. WADE:** I can't get in trouble. I've

1 reached a certain age where I can't get in
2 trouble. But I would start at the top. I mean
3 I think it's within the prerogative of this
4 Board, should it choose, to advise the
5 Secretary of HHS of a concern that it's come
6 upon in its deliberations and to outline that
7 concern, and I think that's perfectly
8 reasonable. It's perfectly appropriate.
9 I would stop that and say on a personal level,
10 before I would suggest you take that step, I
11 would take some other steps that -- that would
12 try to get the issue before the right people in
13 the Department of Labor. I believe as strongly
14 as I'm sitting here that those people care
15 about the job that they do and want to provide
16 quality service. So I think our first job is
17 to bring concerns with as much specificity to
18 them as we can so that they can work on it.
19 If you are concerned about it enough, you can
20 ask them to report back to you at the next
21 meeting as to what's happened, and then make
22 your judgment as to whether you want to
23 escalate this. But before I would write to the
24 Secretary of HHS, I would propose that we
25 attempt to engage DOL at some meaningful level,

1 and quite possibly build a feedback loop into
2 it, before I would take that step, Paul.

3 **MR. GIBSON:** Dr. Ziemer?

4 **DR. ZIEMER:** Would this be a request of Pete to
5 -- expressing the concern and asking him to
6 report --

7 **MR. PRESLEY:** Mike has a --

8 **DR. ZIEMER:** Okay, Mike, hang on just a second.
9 I'm asking if this would be a -- a letter to
10 Pete asking -- or expressing our concern and
11 asking him what they might be able to do to
12 correct this situation.

13 **DR. WADE:** Inviting -- and inviting him to the
14 next Board meeting to speak to the issue and to
15 report. I think -- I mean I would follow the
16 Golden Rule in this. I mean if we were in that
17 situation, that's what we would like to see.

18 **DR. ZIEMER:** Right. Mike Gibson.

19 **MR. GIBSON:** Yes. Dr. Ziemer, I have to agree
20 with Mr. Presley. This has been brought up on
21 a number of occasions by a number of people.
22 As a matter of fact, I think the record and the
23 transcripts will show that over a year ago I
24 read a redacted letter into the record -- a
25 letter from DOL to a potential survivor, that

1 even had a little Post-it attached to it saying
2 "I don't want to be morbid, but when your
3 spouse passes away, here's what you need to
4 do." And I was assured by DOL after that
5 meeting that person would not deal with another
6 claimant. And over a year later I believe it
7 was, at a different meeting, the same letter
8 was read by one of the people during the public
9 comment period. So DOL has had ample
10 opportunity. They've heard this complaint.
11 Pete Turcic or one of the DOL representatives
12 made the statement these people won't -- this
13 letter will be stopped, these people will not -
14 - you know, this -- they will not be addressed
15 like this in any manner again. And evidently,
16 according to Mr. Presley's information, it's
17 still going on. So I'm not so sure it's not
18 time that we take some action other than --
19 than just a general little chat with DOL, or
20 asking them to explain it at the next meeting.
21 I think they've had ample opportunity, in my
22 opinion.

23 **DR. ZIEMER:** Okay. Thank you, Mike, and I do
24 recall your entering that letter into the
25 record a year ago, or whenever that was.

1 Okay, Larry.

2 **MR. ELLIOTT:** Kate reminded me that -- I think
3 it was after the Oak Ridge meeting, or maybe
4 the Knoxville meeting, that direction was given
5 to ORAU to -- ORAU staff to glean every bit of
6 specific instance from the transcript of public
7 comment about -- that goes to this, and then we
8 would follow up on our side and make sure it
9 wasn't us. So we have, through that gleaning
10 effort, these situation-specific things that we
11 could help you provide the DOL if that's --
12 that's something you want.

13 **DR. ZIEMER:** Right.

14 **MR. ELLIOTT:** I would -- to give Pete Turcic a
15 little bit of credit here, when I talk to him
16 about these issues, though, his first -- what
17 he'll say, has said to me and will probably say
18 to you is that the growth that they've
19 experienced with the Subtitle E coming to them
20 and all the new faces and the new people, and
21 their cross-training that's gone on, these are
22 some of the problems that have resulted from
23 the growing pains that they've experienced.
24 That's not, in my mind, an acceptable excuse,
25 but that's what you might here.

1 **DR. ZIEMER:** And to some extent in the past
2 year this has been treated somewhat informally.
3 We've brought it up, but maybe an official
4 letter from the Board, which we haven't done,
5 to Pete and sort of requesting him to be
6 accountable to us on this, to the extent we can
7 make that request. And having the specific is-
8 - cases that ORAU has gleaned, which could be
9 an attachment or whatever to such a letter,
10 would be a first step. And -- and I think it
11 could be made clear that if this situation
12 isn't corrected it will be necessary for us to
13 -- to raise --

14 **MR. ELLIOTT:** We'll be happy to provide that,
15 because it shows it's not just episodic. It's
16 ongoing.

17 **DR. ZIEMER:** Yes.

18 **MR. ELLIOTT:** And if I can be candid, the
19 problem here, from my perspective, is is that
20 we're all viewed as the government. Even you
21 folks sitting there are viewed as the
22 government.

23 **DR. ZIEMER:** Right.

24 **MR. ELLIOTT:** And if one part of the government
25 messes up, then we're all --

1 **MS. MUNN:** Everybody.

2 **MR. ELLIOTT:** -- we're all guilty.

3 **DR. ZIEMER:** Right.

4 **DR. WADE:** Well, I appreciate that, but it -- I
5 mean let he who is without sin -- I mean we at
6 NIOSH have an awful lot that's brought up
7 that's critical of us. I mean so I think we
8 need to proceed very cautiously in this. I
9 mean it is all one government, and that's not
10 unfortunate. That's the way it is, and we
11 share this burden together.

12 Again, I would instruct you now as your DFO, if
13 you're going to go to the Secretary of HHS with
14 this kind of information, get your facts right
15 and have your facts correct. I think other
16 than that, you do a great disservice to
17 yourself, as well as to those you write about.

18 **DR. ZIEMER:** Well, I think, as you suggested,
19 the first step is to go to Pete and see if he
20 can get that corrected.

21 **MR. PRESLEY:** Yeah.

22 **DR. ZIEMER:** Wanda.

23 **MR. GIBSON:** Dr. Ziemer?

24 **MS. MUNN:** I certainly agree with Lew's
25 observation regarding caution in this regard,

1 recalling that we all live in glass houses. By
2 the same token, it seems appropriate that we
3 formalize our communication with Pete by
4 creating a letter giving him some specifics
5 that he can work from and, if at all possible,
6 let that agency deal with its problems
7 internally before we pursue it further.

8 **DR. ZIEMER:** I think Mike Gibson may have
9 another comment. Mike?

10 **MR. GIBSON:** Yes. Dr. Ziemer, I agree with
11 Larry and Lew's comments. You know, we are all
12 looked at as the government. I mean obviously
13 DOL and NIOSH are the government. We are just
14 private citizens appointed by the President,
15 but -- and I wasn't -- I wasn't pointing my
16 finger specifically at Pete Turic (sic), but at
17 the Department of Labor and commitments they
18 made. And after one year, we heard the same --
19 we got the same copy of the same letter from
20 another claimant in another city. So obviously
21 someone there did not do their job, and I just
22 -- it's -- in my opinion, it's -- it's
23 discouraging claimants. It's hurting them.
24 And you know, I just think that it's time for
25 at least our side of the house that we -- we

1 are charged to monitor to relate to the other
2 side of the house, the Department of Labor,
3 that this is an ongoing issue. I'm sure it is
4 in the transcripts and it can be pulled out and
5 related that, you know, it's time for this to
6 stop. I don't think we need to pussyfoot
7 around here. I think we need to let them know
8 it's time for this to be changed.

9 **DR. ZIEMER:** Okay. Thank you, Mike. Jim
10 Lockey has a comment.

11 **DR. LOCKEY:** I would like to offer some caution
12 that perhaps the way to approach this is to ask
13 them to share with us their quality assurance
14 program that they have in place to monitor how
15 they're handling Department of Labor issues.
16 When I make a phone call I hear in the
17 background, you know, "This may be monitored
18 for quality assurance." What -- what kind of
19 program do they -- do they potentially have in
20 place to monitor the quality of the service
21 they're providing. Perhaps they have
22 something. If not, maybe then it will spur
23 them on to get something.

24 **MR. GIBSON:** Dr. (unintelligible) --

25 **DR. ZIEMER:** I'd like to get a sense of the

1 Board --

2 **MR. GIBSON:** -- (unintelligible) I respond to
3 Dr. (unintelligible) --

4 **DR. ZIEMER:** -- in terms of favoring the
5 approach of first giving Mike (sic) a sort of
6 final chance to correct this through -- but
7 formalizing it through a letter versus going at
8 this time to the Secretary, as I think about
9 that question. And I think Mike has an
10 additional comment here. Mike?

11 **MR. GIBSON:** Yes. Dr. Lockey, this -- this was
12 not in the form of a phone call or anything
13 else. This was a form letter from the
14 Department of Labor and it -- and it appears to
15 me, from what I've seen first-hand and
16 submitted into the record, and what I've heard
17 second-hand from a claimant at a meeting a year
18 later, this is a form letter that they're still
19 using that they claimed they would not let
20 happen again. So it's -- it's not neces-- it's
21 not any part of the phone interview or anything
22 else. It's a -- a request, I believe after a
23 denial of the claim, to do some other things.
24 So it just appears to me that they're not
25 following through with their written

1 correspondence with claimants or survivors.

2 **DR. ZIEMER:** Okay, thank you --

3 **DR. WADE:** I would offer again another caution.
4 I mean this Board has been chartered to do
5 certain things. I think you need to consider
6 your charter as you contemplate your actions.

7 **DR. ZIEMER:** The issue of quality assurance may
8 not come into the picture here. If in fact
9 this is part of their routine, then quality
10 assurance would say did you send out letter X.
11 And if that's the offensive letter, it would
12 pass all quality assurance but still not solve
13 our problem.

14 But in any event, I think the compilation that
15 Kate talks about -- 'cause it may go -- well go
16 beyond this single letter. This may be just
17 part of the issue. And I think in terms of
18 this Board's responsibility, I think we could
19 argue that this is part of the overall -- for
20 the -- for our claimants, this is part of the
21 dose reconstruction process. Yes, it's true
22 that it's the final step. Labor has that
23 responsibility. And for many of these,
24 particularly those who are denied, it's -- it's
25 a harsh ending on a process. And if the -- if

1 the harsh ending is made even worse by the
2 words that are used, it seems to me it concerns
3 us in terms of the total process.

4 **DR. WADE:** And I -- I applaud the emotion that
5 you bring to this, and I applaud what you are
6 trying to do. But again, your responsibilities
7 are to oversee the scientific quality of the
8 dose reconstruction program.

9 **DR. ZIEMER:** Right.

10 **DR. WADE:** Again, I think the emotion that
11 brings you to this point is wonderful. I think
12 you should follow up and do what you can. But
13 I ask you to do that in consideration of what
14 your responsibilities are.

15 **DR. ZIEMER:** Okay. Additional comment? John
16 Poston.

17 **DR. POSTON:** I've been sitting here listening
18 to all this, and I understand Mike's
19 frustration and so forth. But being one of the
20 older folks on the panel, I would caution that
21 we should accept Lew's approach to the problem.
22 That doesn't keep us from doing other things,
23 but it seems to me we need to take a first
24 step, and the first step can be as -- excuse
25 me, to use an old word -- as gentlemanly as

1 possible. And then we certainly have a big
2 stick if we need it. So I would caution that
3 we need to pay attention to our -- our
4 Designated Federal Official and if possible
5 follow his advice.

6 **MR. PRESLEY:** I agree.

7 **MR. GIBSON:** Dr. Ziemer?

8 **DR. ZIEMER:** That advice -- at this point, Lew,
9 I'm trying to interpret now -- you're not
10 suggesting that we do nothing.

11 **DR. WADE:** Well, I'm suggesting that you write
12 to the Department of Labor with as much
13 specificity as you can saying this is what
14 we've found. I'm sure, Department of Labor,
15 that you want to do the best job by these
16 people that you can and we've found these
17 materials. They trouble us to the point that
18 we would like you to come to the next meeting
19 and to address us as to these issues. I would
20 stop short of threatening. I mean it's just
21 not my way. If you choose to do that, I -- I
22 say go and do it, but it's not my way. But
23 then take your next measured step.
24 But also get your facts right. I mean if
25 you're going to start to talk about the

1 sequence of events that troubles you, then you
2 need to have your facts right.

3 **MR. PRESLEY:** Right.

4 **DR. ZIEMER:** Gen Roessler.

5 **MR. GIBSON:** Dr. Ziemer?

6 **DR. ROESSLER:** Just to follow up on what Lew
7 just said, let's make sure we get the facts
8 right before we embarrass ourselves. A letter
9 has been mentioned, and we don't know the date
10 of this letter and the various times it's been
11 brought up in the public session. We want to
12 make sure that that letter hasn't been changed
13 before we start commenting on it.

14 **DR. ZIEMER:** Yeah, the fact that it was seen a
15 year later -- and Mike may be -- may be able to
16 clarify if he knows that the date on the letter
17 was a year later. But -- and I think Mike is
18 on -- has another comment anyway. Mike?

19 **MR. GIBSON:** With all due respect to Dr. Poston
20 and Dr. Wade, I'm not suggesting any
21 threatening letter or anything that we don't
22 have the authority to -- to take grounds on.
23 I'm just suggesting a letter stating that this
24 was addressed at one meeting. It is on the
25 transcripts. It said it would be taken care of

1 on the transcripts. And a year later it was
2 read into the public record by a claimant or a
3 survivor, I -- I don't remember which at this
4 point, I believe it was a survivor. And you
5 know, again, I -- I'd have to just stroll back
6 through the transcripts and try to find it, but
7 the fact is, DOL made the commitment that
8 letter, after the first reading of that letter,
9 it would never be -- it would never happen
10 again, that letter would be changed, that
11 person would not deal with any other claimants.
12 And obviously, whether or not that person is
13 still dealing with claimants is unknown, but
14 the letter was unchanged. And I just think a
15 letter from the Secretary of Health and Human
16 Services giving these facts to the Director of
17 Department of Labor, not blaming any of his
18 staff but just simply saying, you know, this
19 obviously is still going on and it needs to be
20 changed. I'm not -- I don't think I'm jumping
21 to any conclusions here, but you know, it's
22 just something that I specifically remember
23 because, you know, it was an issue that was --
24 it was brought to me.

25 **DR. ZIEMER:** Okay. Okay. Thanks, Mike. And I

1 might point out that, for example, even last
2 night we -- we had people quoting from letters
3 that they received, for example, 20 years ago.
4 And I'm not sure if -- whether or not we know,
5 even though the second letter surfaced a year
6 later, whether it was actually written a year
7 later, or could it have been, you know, the
8 same version and maybe that person got it
9 concurrently or even earlier than the previous.
10 I don't know if we -- we would need to verify
11 that it actually was sent out a year later.
12 The fact that it came to our attention a year
13 later does not necessarily indicate that it was
14 still in use at that time. We see all kinds of
15 documents from claimants that -- because they
16 keep these in files and they date back, some of
17 them, many, many years. And so I think Dr.
18 Roessler's certainly true that anything that --
19 that we use as a basis for a kind of complaint,
20 we need to make sure and now perhaps we'll rely
21 on the work that ORAU has done to -- to compile
22 these things --

23 **MR. GIBSON:** Dr. (unintelligible) --

24 **DR. ZIEMER:** -- or form a basis for us to
25 determine --

1 **MR. GIBSON:** Dr. Ziemer?

2 **DR. ZIEMER:** -- precisely what to say, but my
3 inclination is that we would write a letter to
4 Pete and indicate our concerns, based on what
5 has been found by the ORAU search, and simply
6 ask them --

7 **MR. GIBSON:** Dr. Ziemer?

8 **DR. ZIEMER:** -- what their -- how -- how
9 they're addressing this in terms of those for
10 whom dose reconstructions have been done.

11 **DR. WADE:** Mike has a comment.

12 **DR. ZIEMER:** And Mike, another comment.

13 **MR. GIBSON:** I'm not discussing letters from
14 history. I'm discussing letters from like two
15 years ago, a form letter from the Department of
16 Labor on a denial of a claim, and I'm
17 discussing a letter that said that would be
18 stopped, at a public -- at one of our Board
19 meetings from a Department of Labor
20 representative. And a year -- a year later we
21 see the same form letter. So I'm not
22 discussing prehistoric documents. I'm talking
23 about letter -- a letter that was read into the
24 record, said it would be changed, and a year
25 later -- after hearing from Department of Labor

1 saying it would be changed, it was still there.

2 **DR. ZIEMER:** Okay. Okay, Dr. Melius?

3 **MR. GIBSON:** (Unintelligible)

4 **DR. MELIUS:** Yeah, can I suggest another way
5 forward on this?

6 **MR. GIBSON:** (Unintelligible)

7 **DR. MELIUS:** First of all, I don't think we can
8 base a letter from Secretary of Health and
9 Human Services to the Secretary of Labor based
10 on a single set of letters or something like
11 that. I think let's -- I think we're trying to
12 get at a -- what we've perceived to be a more
13 general problem, and I think the first step we
14 need to do is -- if ORAU has done this
15 compilation from a number of our public
16 meetings, let's take a look at that and see if
17 there's some way we can generalize about the
18 types of issues we have and so forth. If it's
19 -- I don't know what the status of the report
20 is, but it might be something that we could get
21 out -- if it's already been compiled, get out
22 to us before our conference call meeting in
23 October and be able to discuss a letter on the
24 conference call meeting.

25 **DR. ZIEMER:** Certainly do that. That would be

1 a good first step if we had the actual
2 information on the instances, the letters and
3 the associated dates --

4 **DR. WADE:** Right.

5 **DR. ZIEMER:** -- it would be -- beyond the two
6 that Mike referred to, and they may be included
7 -- probably are -- in that database.

8 **DR. MELIUS:** Yeah, we should include the -- the
9 two instances Mike referred --

10 **DR. ZIEMER:** Right.

11 **DR. MELIUS:** I recall the -- certainly the
12 first one, but I -- I don't recall the second
13 one, but it doesn't mean it didn't occur, so --

14 **DR. ZIEMER:** Jim Lockey?

15 **DR. LOCKEY:** I just -- I want to concur with
16 what Jim just said.

17 **DR. ZIEMER:** Okay. And Wanda?

18 **MS. MUNN:** A key point seems to be one that
19 Larry touched upon but has not been key in our
20 discussions here. That is that there appears
21 to be a continuing problem, not just that Bob
22 has had interaction with people here this week,
23 but that there seems to continue to be an
24 issue. That continuing process is the primary
25 reason for concern, I believe, and in my view

1 that should be the emphasis of our -- of our
2 communication with Mr. Turcic.

3 **DR. ZIEMER:** Other comments?

4 **DR. WADE:** And I would be remiss if I didn't
5 add to that that one listening to the record
6 could also find evidence of a continuing
7 problem within NIOSH. So I mean I think we
8 need to deal with these issues, all of us, as
9 we can. And I think raising this to the
10 Department of Energy's -- Department of Labor
11 is a wonderful thing to do. But again, this is
12 about serving the public across the board.

13 **DR. ZIEMER:** Right. Okay, we -- we've
14 discussed this pretty well. It appears that we
15 can proceed. I'm going to take it by consent
16 that the Board has agreed that we will first
17 get the information that Larry has compiled
18 through the help of the contractor, have a
19 chance to look at that, and then we'll have an
20 opportunity in our phone meeting to decide
21 specifically on a course of action, the nature
22 of the letter that may be needed to bring this
23 to resolution.

24 **MR. ELLIOTT:** I commit to have that to you a
25 week from Monday.

1 **DR. ZIEMER:** Okay.

2 **MR. ELLIOTT:** I'd like to see it first to make
3 sure --

4 **DR. MELIUS:** Yeah.

5 **DR. ZIEMER:** Sure.

6 **MR. ELLIOTT:** -- that it is fully complete,
7 'cause I haven't seen it. I'd also like to
8 make sure that my public health advisors have
9 an opportunity to add to it from our
10 perspective.

11 **DR. ZIEMER:** I think we would simply need it,
12 for example, a week before our phone
13 conversation, so if it takes a little more time
14 for you, that will not be a problem.
15 Any objections to that?

16 **DR. WADE:** No.

17 **DR. ZIEMER:** Then we'll proceed from there.

18 **MR. PRESLEY:** No problem.

19 **DR. ZIEMER:** Okay. Thank you very much. Any
20 other issues that anyone wishes to bring before
21 the Board?

22 (No responses)

23 Anything for the good of the order? If not, we
24 stand adjourned. I thank you all very much.

25 (Whereupon, the meeting concluded at 3:50 p.m.)

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CERTIFICATE OF COURT REPORTER**STATE OF GEORGIA****COUNTY OF FULTON**

I, Steven Ray Green, Certified Merit Court Reporter, do hereby certify that I reported the above and foregoing on the day of Sept. 21, 2006; and it is a true and accurate transcript of the testimony captioned herein.

I further certify that I am neither kin nor counsel to any of the parties herein, nor have any interest in the cause named herein.

WITNESS my hand and official seal this the 18th day of November, 2006.

STEVEN RAY GREEN, CCR**CERTIFIED MERIT COURT REPORTER****CERTIFICATE NUMBER: A-2102**